Journal of the House

State of Indiana

113th General Assembly *Second Regular Session*

Twenty-eighth Meeting Day **Wednesday Afternoon** **March 3, 2004**

The House convened at 1:30 p.m. with the Speaker in the Chair.

The invocation was offered by Reverend Alfred Weems, III, Agape Love Ministries Church, Gary, the guest of Representative Linda C. Lawson.

The Pledge of Allegiance to the Flag was led by Representative L. Lawson.

The Speaker ordered the roll of the House to be called:

T. Adams	Kromkowski **...**
Aguilera	Kruse
Alderman	Kuzman
Austin	LaPlante
Avery	L. Lawson
Ayres	Lehe
Bardon	Leonard
Becker	Liggett
Behning	J. Lutz
Bischoff	Lytle
Borror	Mahern
Bosma	Mangus
Bottorff	Mays
C. Brown	McClain
T. Brown	Messer
Buck	Moses
Budak	Murphy
Buell	Neese
Burton	Noe
Cheney	Orentlicher
Cherry	Oxley
Chowning	Pelath
Cochran	Pflum **...**
Crawford	Pierce
Crooks	Pond
Day	Porter
Denbo	Reske
Dickinson	Richardson
Dobis	Ripley
Duncan	Robertson
Dvorak	Ruppel
Espich	Saunders
Foley	Scholer
Frenz	V. Smith
Friend	Stevenson
Frizzell **...**	Stilwell
Fry	Stutzman
GiaQuinta	Summers
Goodin	Thomas
Grubb	Thompson
Gutwein	Torr
Harris	Turner
Hasler	Ulmer
Heim	Van Haaften
Herrell	Welch
Hinkle	Whetstone
Hoffman	Wolkins
Kersey	D. Young
Klinker	Yount
Koch	Mr. Speaker

Roll Call 255: 97 present; 3 excused. The Speaker announced a quorum in attendance. [*NOTE*: **...** *indicates those who were excused*.]

HOUSE MOTION

Mr. Speaker: I move that when we do adjourn, we adjourn until Thursday, March 4, 2004 at 11:00 a.m.

MAHERN

Motion prevailed.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
ESB 19–1; filed March 3, 2004, at 10:08a.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 19 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-20-5-4, AS AMENDED BY P.L.147-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. In addition to the highways established and designated as heavy duty highways under section 1 of this chapter, the following highways are designated as extra heavy duty highways:

(1) Highway 41, from 129th Street in Hammond to Highway 312.

(2) Highway 312, from Highway 41 to State Road 912.

(3) Highway 912, from Michigan Avenue in East Chicago to the U.S. 20 interchange.

(4) Highway 20, from Clark Road in Gary to Highway 39.

(5) Highway 12, from one-fourth (1/4) mile west of the Midwest Steel entrance to Highway 249.

(6) Highway 249, from Highway 12 to Highway 20.

(7) Highway 12, from one and one-half (1 1/2) miles east of the Bethlehem Steel entrance to Highway 149.

(8) Highway 149, from Highway 12 to a point thirty-six hundredths (.36) of a mile south of Highway 20.

(9) Highway 39, from Highway 20 to the Michigan state line.

(10) Highway 20, from Highway 39 to Highway 2.

(11) Highway 2, from Highway 20 to Highway 31.

(12) Highway 31, from the Michigan state line to Highway 23.

(13) Highway 23, from Highway 31 to Olive Street in South Bend.

(14) Highway 35, from South Motts Parkway thirty-four hundredths (.34) of a mile southeast to the point where Highway 35 intersects with the overpass for Highway 20/Highway 212.

(15) State Road 249 from U.S. 12 to the point where State Road 249 intersects with Nelson Drive at the Port of Indiana.

(16) State Road 912 from the 15th Avenue and 169th Street interchange one and six hundredths (1.06) miles north to the U.S. 20 interchange.

(17) U.S. 20 from the State Road 912 interchange three and seventeen hundredths (3.17) miles east to U.S. 12.

(18) U.S. 6 from the Ohio state line to State Road 9.

(19) U.S. 30 from Allen County/Whitley County Line Road (also known as County Road 800 East) to State Road 9.

(20) State Road 9 from U.S. 30 to U.S. 6.

SECTION 2. **An emergency is declared for this act.**

(Reference is to ESB 19 as printed February 20, 2004.)

R. MEEKS	MOSES
CRAYCRAFT	BORROR
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1437–1; filed March 3, 2004, at 1:27 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1437 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 11-10-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 13. Costs of Incarceration

Sec. 1. The department shall develop a methodology for determining the average daily cost of incarcerating an offender.

Sec. 2. The department shall determine the average daily cost of incarcerating an offender in:

(1) the department; and

(2) each county jail.

Sec. 3. The department shall provide each court with jurisdiction over felony and misdemeanor cases with a report enumerating the average daily costs of incarcerating an offender.

Sec. 4. (a) The department shall update the report described in section 3 of this chapter twice each calendar year. However, if the average daily cost of incarcerating an offender deviates less than one percent (1%) from the previous cost determination, the department is not required to update the report.

(b) The department shall update the report described in section 3 of this chapter, if necessary, after receiving the semiannual incarceration cost analysis from each county sheriff under IC 36-2-13-5.

Sec. 5. The department may use the semiannual incarceration cost analysis of a county sheriff under IC 36-2-13-5 as the daily cost of incarcerating an offender in that county jail.

Sec. 6. (a) The department shall annually conduct or contract with a third party to annually conduct an actuarially based study of projected costs of incarceration.

(b) The study must:

(1) consider:

(A) the present and anticipated future costs of incarcerating the current inmate population;

(B) the effect of credit time;

(C) the effect of inmate mortality rates;

(D) the projected increase in costs of incarceration; and

(E) any other factor determined to be relevant by the department or the third party contractor; and

(2) provide an analysis of the projected costs of incarceration for each subsequent calendar year after the year the study is conducted until each inmate in the current inmate population is no longer serving the executed sentence for which the inmate is incarcerated in the department.

(c) Before July 1 of each year, the department shall provide the legislative council with the results of the study. The department shall provide the results in an electronic format under IC 5-14-6.

Sec. 7. The department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 2. IC 11-12-2-3, AS AMENDED BY P.L.224-2003, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) A community corrections advisory board shall:

(1) formulate:

(A) the community corrections plan and the application for financial aid required by section 4 of this chapter; and

(B) the forensic diversion program plan under ~~IC 11-12-3.5-2~~ **IC 11-12-3.7;**

(2) observe and coordinate community corrections programs in the county;

(3) make an annual report to the county fiscal body, county executive, or, in a county having a consolidated city, the city-county council, containing an evaluation of the effectiveness of programs receiving financial aid under this chapter and recommendations for improvement, modification, or discontinuance of these programs;

(4) ensure that programs receiving financial aid under this chapter comply with the standards adopted by the department under section 5 of this chapter; and

(5) recommend to the county executive or, in a county having a consolidated city, to the city-county council, the approval or disapproval of contracts with units of local government or nongovernmental agencies that desire to participate in the community corrections plan.

Before recommending approval of a contract, the advisory board must determine that a program is capable of meeting the standards adopted by the department under section 5 of this chapter.

(b) A community corrections advisory board shall do the following:

(1) Adopt bylaws for the conduct of its own business.

(2) Hold a regular meeting at least one (1) time every three (3) months and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established at the first meeting of each year.

(3) Comply with the public meeting and notice requirements under IC 5-14-1.5.

(c) A community corrections advisory board may contain an office as designated by the county executive or, in a county having a consolidated city, by the city-county council.

(d) Notwithstanding subsection (a)(4), the standards applied to a court alcohol and drug program or a drug court that provides services to a forensic diversion program under IC 11-12-3.7 must be the standards established under IC 12-23-14 or IC 12-23-14.5.

SECTION 3. IC 11-12-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 3.7. Forensic Diversion Program

Sec. 1. As used in this chapter, "addictive disorder" means a diagnosable chronic substance use disorder of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Sec. 2. As used in this chapter, "advisory board" means a:

(1) community corrections advisory board, if there is one in the county; or

(2) forensic diversion program advisory board, if there is not a community corrections advisory board in the county.

Sec. 3. As used in this chapter, "drug dealing offense" means one (1) or more of the following offenses:

(1) Dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1), unless the person received only minimal consideration as a result of the drug transaction.

(2) Dealing in a schedule I, II, III, IV, or V controlled substance (IC 35-48-4-2 through IC 35-48-4-4), unless the person received only minimal consideration as a result of the drug transaction.

(3) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10), unless the person received only minimal consideration as a result of the drug transaction.

Sec. 4. As used in this chapter, "forensic diversion program" means a program designed to provide an adult:

(1) who has a mental illness or addictive disorder; and

(2) who has been charged with a crime that is not a violent offense;

an opportunity to receive community treatment and other services addressing mental health and addiction instead of or in addition to incarceration.

Sec. 5. As used in this chapter, "mental illness" means a psychiatric disorder that is of sufficient duration to meet

diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

Sec. 6. As used in this chapter, "violent offense" means one (1) or more of the following offenses:

(1) Murder (IC 35-42-1-1).
(2) Attempted murder (IC 35-41-5-1).
(3) Voluntary manslaughter (IC 35-42-1-3).
(4) Involuntary manslaughter (IC 35-42-1-4).
(5) Reckless homicide (IC 35-42-1-5).
(6) Aggravated battery (IC 35-42-2-1.5).
(7) Battery (IC 35-42-2-1) as a Class A felony, Class B felony, or Class C felony.
(8) Kidnapping (IC 35-42-3-2).
(9) A sex crime listed in IC 35-42-4-1 through IC 35-42-4-8 that is a Class A felony, Class B felony, or Class C felony.
(10) Sexual misconduct with a minor (IC 35-42-4-9) as a Class A felony or Class B felony.
(11) Incest (IC 35-46-1-3).
(12) Robbery as a Class A felony or a Class B felony (IC 35-42-5-1).
(13) Burglary as a Class A felony or a Class B felony (IC 35-43-2-1).
(14) Carjacking (IC 35-42-5-2).
(15) Assisting a criminal as a Class C felony (IC 35-44-3-2).
(16) Escape (IC 35-44-3-5) as a Class B felony or Class C felony.
(17) Trafficking with an inmate as a Class C felony (IC 35-44-3-9).
(18) Causing death when operating a motor vehicle (IC 9-30-5-5).
(19) Criminal confinement (IC 35-42-3-3) as a Class B felony.
(20) Arson (IC 35-43-1-1) as a Class A or Class B felony.
(21) Possession, use, or manufacture of a weapon of mass destruction (IC 35-47-12-1).
(22) Terroristic mischief (IC 35-47-12-3) as a Class B felony.
(23) Hijacking or disrupting an aircraft (IC 35-47-6-1.6).
(24) A violation of IC 35-47.5 (Controlled explosives) as a Class A or Class B felony.
(25) A crime under the laws of another jurisdiction, including a military court, that is substantially similar to any of the offenses listed in this subdivision.
(26) Any other crimes evidencing a propensity or history of violence.

Sec. 7. (a) An advisory board shall develop a forensic diversion plan to provide an adult who:

(1) has a mental illness or addictive disorder; and
(2) has been charged with a crime that is not a violent crime;

an opportunity, pre-conviction or post-conviction, to receive community treatment and other services addressing mental health and addictions instead of or in addition to incarceration.

(b) The forensic diversion plan may include any combination of the following program components:

(1) Pre-conviction diversion for adults with mental illness.
(2) Pre-conviction diversion for adults with addictive disorders.
(3) Post-conviction diversion for adults with mental illness.
(4) Post-conviction diversion for adults with addictive disorders.

(c) In developing a plan, the advisory board must consider the ability of existing programs and resources within the community, including:

(1) a drug court established under IC 12-23-14.5;
(2) a court alcohol and drug program certified under IC 12-23-14-13;
(3) treatment providers certified by the division of mental health and addiction under IC 12-23-1-6 or IC 12-21-2-3(a)(5); and
(4) other public and private agencies.

(d) Development of a forensic diversion program plan under this chapter or IC 11-12-2-3 does not require implementation of a forensic diversion program.

(e) The advisory board may:

(1) operate the program;
(2) contract with existing public or private agencies to operate one (1) or more components of the program; or
(3) take any combination of actions under subdivisions (1) or (2).

(f) Any treatment services provided under the forensic diversion program:

(1) for addictions must be provided by an entity that is certified by the division of mental health and addiction under IC 12-23-1-6; or
(2) for mental health must be provided by an entity that is:
(A) certified by the division of mental health and addiction under IC 12-21-2-3(a)(5);
(B) accredited by an accrediting body approved by the division of mental health and addiction; or
(C) licensed to provide mental health services under IC 25.

Sec. 8. (a) An individual may request treatment under this chapter or the court may order an evaluation of the individual to determine if the individual is an appropriate candidate for forensic diversion.

(b) A request for treatment or an order for an evaluation under this chapter tolls the running of the speedy trial time period until the court has made a determination of eligibility for the program under this section.

Sec. 9. (a) A court shall be provided with periodic progress reports on an individual who is ordered by the court to undergo treatment in a forensic diversion program.

(b) A participant may not be released from a forensic diversion program without a court order. The court must consider the recommendation of the forensic diversion program before ordering a participant's release.

Sec. 10. (a) A county that does not have a community corrections advisory board may form a forensic diversion advisory board.

(b) A forensic diversion advisory board formed under subsection (a) shall consist of the following:

(1) A judge exercising criminal jurisdiction in the county.
(2) The head of the county public defender office, if there is one in the county, or a criminal defense attorney who practices in the county if there is not a county public defender office in the county.
(3) The chief probation officer.
(4) The prosecuting attorney.
(5) The drug court judge or the designee of the drug court judge if there is a certified drug court in the county.
(6) The supervising judge of the court alcohol and drug services program or the designee of the supervising judge, if there is a certified court alcohol and drug services program in the county.
(7) An individual who is certified or licensed as a substance abuse professional.
(8) An individual who is certified or licensed as a mental health professional.
(9) An individual with expertise in substance abuse or mental health treatment.

Sec. 11. (a) A person is eligible to participate in a pre-conviction forensic diversion program only if the person meets the following criteria:

(1) The person has a mental illness or an addictive disorder.
(2) The person has been charged with an offense that is:
(A) not a violent offense; and
(B) a Class A, B, or C misdemeanor, or a Class D felony that may be reduced to a Class A misdemeanor in accordance with IC 35-50-2-7.
(3) The person does not have a conviction for a violent offense in the previous ten (10) years.

(b) Before an eligible person is permitted to participate in a pre-conviction forensic diversion program, the court shall advise the person of the following:

(1) Before the individual is permitted to participate in the program, the individual will be required to enter a guilty plea to the offense with which the individual has been

charged.

(2) The court will stay entry of the judgment of conviction during the time in which the individual is successfully participating in the program. If the individual stops successfully participating in the program, or does not successfully complete the program, the court will lift its stay, enter a judgment of conviction, and sentence the individual accordingly.

(3) If the individual participates in the program, the individual may be required to remain in the program for a period not to exceed three (3) years.

(4) During treatment the individual may be confined in an institution, be released for treatment in the community, receive supervised aftercare in the community, or may be required to receive a combination of these alternatives.

(5) If the individual successfully completes the forensic diversion program, the court will waive entry of the judgment of conviction and dismiss the charges.

(6) The court shall determine, after considering a report from the forensic diversion program, whether the individual is successfully participating in or has successfully completed the program.

(c) Before an eligible person may participate in a pre-conviction forensic diversion program, the person must plead guilty to the offense with which the person is charged.

(d) Before an eligible person may be admitted to a facility under the control of the division of mental health and addiction, the individual must be committed to the facility under IC 12-26.

(e) After the person has pleaded guilty, the court shall stay entry of judgment of conviction and place the person in the pre-conviction forensic diversion program for not more than:

(1) two (2) years, if the person has been charged with a misdemeanor; or

(2) three (3) years, if the person has been charged with a felony.

(f) If, after considering the report of the forensic diversion program, the court determines that the person has:

(1) failed to successfully participate in the forensic diversion program, or failed to successfully complete the program, the court shall lift its stay, enter judgment of conviction, and sentence the person accordingly; or

(2) successfully completed the forensic diversion program, the court shall waive entry of the judgment of conviction and dismiss the charges.

Sec. 12. (a) A person is eligible to participate in a post-conviction forensic diversion program only if the person meets the following criteria:

(1) The person has a mental illness or an addictive disorder.

(2) The person has been convicted of an offense that is:

(A) not a violent offense; and

(B) not a drug dealing offense.

(3) The person does not have a conviction for a violent offense in the previous ten (10) years.

(b) If the person has been convicted of an offense that may be suspended, the court shall suspend all or a portion of the person's sentence, place the person on probation for the suspended portion of the person's sentence, and require as a condition of probation that the person successfully participate in and successfully complete the post-conviction forensic diversion program.

(c) If the person has been convicted of an offense that is nonsuspendible, the court shall order the execution of the nonsuspendible sentence and stay execution of all or part of the nonsuspendible portion of the sentence pending the person's successful participation in and successful completion of the post-conviction forensic diversion program. The court shall treat the suspendible portion of a nonsuspendible sentence in accordance with subsection (b).

(d) The person may be required to participate in the post-conviction forensic diversion program for no more than:

(1) two (2) years, if the person has been charged with a misdemeanor; or

(2) three (3) years, if the person has been charged with a felony.

The time periods described in this section only limit the amount of time a person may spend in the forensic diversion program and do not limit the amount of time a person may be placed on probation.

(e) If, after considering the report of the forensic diversion program, the court determines that a person convicted of an offense that may be suspended has failed to successfully participate in the forensic diversion program, or has failed to successfully complete the program, the court shall revoke the person's probation and reimpose all or a portion of the person's suspended sentence.

(f) If, after considering the report of the forensic diversion program, the court determines that a person convicted of a nonsuspendible offense failed to successfully participate in the forensic diversion, or failed to successfully complete the program, the court shall lift its stay of execution of the nonsuspendible portion of the sentence and remand the person to the department of correction. However, if the person failed to successfully participate in the forensic diversion program, or failed to successfully complete the program while serving the suspendible portion of a nonsuspendible sentence, the court shall treat the suspendible portion of the sentence in accordance with subsection (e).

(g) If, after considering the report of the forensic diversion program, the court determines that a person convicted of a nonsuspendible offense has successfully completed the program, the court shall waive execution of the nonsuspendible portion of the person's sentence.

Sec. 13. (a) As used in this section, "account" means the forensic diversion program account established as an account within the state general fund by subsection (b).

(b) The forensic diversion program account is established within the state general fund to administer and carry out the purposes of this chapter. The department shall administer the account.

(c) The expenses of administering the account shall be paid from money in the account.

(d) The treasurer of state shall invest money in the account in the same manner as other public money may be invested.

(e) Money in the account at the end of the state fiscal year does not revert to the state general fund.

(f) The account consists of:

(1) amounts appropriated by the general assembly; and

(2) donations, grants, and money received from any other source.

(g) The department shall adopt guidelines governing the disbursement of funds to the advisory board to support the operation of the forensic diversion program.

(h) There is annually appropriated to the department from the account an amount sufficient to carry out the purposes of this chapter.

SECTION 4. IC 12-23-5-1, AS AMENDED BY P.L.224-2003, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. ~~(a)~~ In a criminal proceeding for a misdemeanor or infraction in which:

(1) the use or abuse of alcohol, drugs, or harmful substances is a contributing factor or a material element of the offense; or

(2) the defendant's mental illness other than substance abuse, is a contributing factor;

the court may take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.

~~(b) For purposes of IC 11-12-3.5, in a criminal proceeding in which:~~

~~(1) the use or abuse of alcohol drugs, or harmful substances is a contributing factor or a material element of the offense; or~~

~~(2) the defendant's mental illness other than substance abuse, is a contributing factor;~~

~~the court shall take judicial notice of the fact that proper early intervention, medical, advisory, or rehabilitative treatment of the defendant is likely to decrease the defendant's tendency to engage in antisocial behavior.~~

SECTION 5. IC 12-23-14.5-14, AS ADDED BY P.L.168-2002,

SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) A person is eligible to participate in a drug court only if:

(1) the person meets all criteria established by the drug court;

(2) the judge approves the admission of the person to the drug court; and

(3) the offense for which the person is referred to drug court is not any of the following:

(A) A forcible felony (as defined in IC 35-41-1-11).

~~(B) A dealing offense under IC 35-48-4.~~

~~(C)~~ **(B)** Any offense that a local drug court committee agrees to exclude from participation.

The local drug court committee referred to in subdivision ~~(3)(C)~~ **(3)(B)** must include the drug court judge, the local prosecuting attorney, and a local criminal defense attorney.

(b) If a person is eligible to participate in a drug court, a person may be referred to the drug court as a result of any of the following:

(1) The procedure described in section 15 of this chapter.

(2) As a term of probation.

(3) In response to a violation of a condition of probation.

SECTION 6. IC 35-38-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. **(a)** When the defendant appears for sentencing, the court shall inform ~~him~~ **the defendant** of the verdict of the jury or the finding of the court. The court shall afford counsel for the defendant an opportunity to speak on behalf of the defendant. The defendant may also make a statement personally in ~~his~~ **the defendant's** own behalf and, before pronouncing sentence, the court shall ask ~~him~~ **the defendant** whether ~~he~~ **the defendant** wishes to make such a statement. Sentence shall then be pronounced, unless a sufficient cause is alleged or appears to the court for delay in sentencing.

(b) A court that sentences a person to a term of imprisonment shall include the total costs of incarceration in the sentencing order. The court may not consider Class I credit under IC 35-50-6-3 in the calculation of the total costs of incarceration.

SECTION 7. IC 35-40-5-5, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. A victim has the right to be heard at any proceeding involving ~~sentence or~~ **sentencing,** a postconviction release decision, **or a pre-conviction release decision under a forensic diversion program.**

SECTION 8. IC 35-40-8-1, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. Upon request of a victim, a criminal court shall notify the victim of any probation **or forensic diversion** revocation disposition proceeding or proceeding in which the court is asked to terminate the probation **or forensic diversion** of a person who is convicted of a crime against the victim.

SECTION 9. IC 35-40-8-2, AS ADDED BY P.L.139-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Upon request of a victim, a criminal court shall notify the victim of a modification of the terms of probation **or a forensic diversion program** of a person convicted of a crime against the victim only if:

(1) the modification will substantially affect the person's contact with or safety of the victim; or

(2) the modification affects the person's restitution or confinement status.

SECTION 10. IC 35-41-1-26.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26.8. "Total costs of incarceration" means the average daily cost of incarcerating an offender, as described in IC 11-10-13, multiplied by the number of days the offender is sentenced to a term of imprisonment.**

SECTION 11. IC 35-50-2-2, AS AMENDED BY HEA 1264, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The court may suspend any part of a sentence for a felony, except as provided in this section or in section 2.1 of this chapter.

(b) With respect to the following crimes listed in this subsection, the court may suspend only that part of the sentence that is in excess of the minimum sentence, unless the court has approved placement of the offender in a forensic diversion program under ~~IC 11-12-3.5~~ **IC 11-12-3.7:**

(1) The crime committed was a Class A or Class B felony and the person has a prior unrelated felony conviction.

(2) The crime committed was a Class C felony and less than seven (7) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class C felony for which the person is being sentenced.

(3) The crime committed was a Class D felony and less than three (3) years have elapsed between the date the person was discharged from probation, imprisonment, or parole, whichever is later, for a prior unrelated felony conviction and the date the person committed the Class D felony for which the person is being sentenced. However, the court may suspend the minimum sentence for the crime only if the court orders home detention under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum sentence specified for the crime under this chapter.

(4) The felony committed was:

(A) murder (IC 35-42-1-1);

(B) battery (IC 35-42-2-1) with a deadly weapon or battery causing death;

(C) sexual battery (IC 35-42-4-8) with a deadly weapon;

(D) kidnapping (IC 35-42-3-2);

(E) confinement (IC 35-42-3-3) with a deadly weapon;

(F) rape (IC 35-42-4-1) as a Class A felony;

(G) criminal deviate conduct (IC 35-42-4-2) as a Class A felony;

(H) child molesting (IC 35-42-4-3) as a Class A or Class B felony;

(I) robbery (IC 35-42-5-1) resulting in serious bodily injury or with a deadly weapon;

(J) arson (IC 35-43-1-1) for hire or resulting in serious bodily injury;

(K) burglary (IC 35-43-2-1) resulting in serious bodily injury or with a deadly weapon;

(L) resisting law enforcement (IC 35-44-3-3) with a deadly weapon;

(M) escape (IC 35-44-3-5) with a deadly weapon;

(N) rioting (IC 35-45-1-2) with a deadly weapon;

(O) dealing in cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(P) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2) if the court finds the person possessed a firearm (as defined in IC 35-47-1-5) at the time of the offense, or the person delivered or intended to deliver to a person under eighteen (18) years of age at least three (3) years junior to the person and was on a school bus or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center;

(Q) an offense under IC 9-30-5 (operating a vehicle while intoxicated) and the person who committed the offense has accumulated at least two (2) prior unrelated convictions under IC 9-30-5;

(R) an offense under IC 9-30-5-5 (operating a vehicle while intoxicated causing death) if the person had:

(i) at least fifteen-hundredths (0.15) gram of alcohol per one hundred (100) milliliters of the person's blood, or at least fifteen-hundredths (0.15) gram of alcohol per two hundred ten (210) liters of the person's breath; or

(ii) a controlled substance listed in schedule I or II of

IC 35-48-2 or its metabolite in the person's blood; or

(S) aggravated battery (IC 35-42-2-1.5).

(c) Except as provided in subsection (e), whenever the court suspends a sentence for a felony, it shall place the person on probation under IC 35-38-2 for a fixed period to end not later than the date that the maximum sentence that may be imposed for the felony will expire.

(d) The minimum sentence for a person convicted of voluntary manslaughter may not be suspended unless the court finds at the sentencing hearing that the crime was not committed by means of a deadly weapon.

(e) Whenever the court suspends that part of an offender's (as defined in IC 5-2-12-4) sentence that is suspendible under subsection (b), the court shall place the offender on probation under IC 35-38-2 for not more than ten (10) years.

(f) An additional term of imprisonment imposed under IC 35-50-2-11 may not be suspended.

(g) A term of imprisonment imposed under IC 35-47-10-6 or IC 35-47-10-7 may not be suspended if the commission of the offense was knowing or intentional.

(h) A term of imprisonment imposed for an offense under IC 35-48-4-6(b)(1)(B) may not be suspended.

SECTION 12. IC 36-2-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) The sheriff shall:

(1) arrest without process persons who commit an offense within ~~his~~ **the sheriff's** view, take them before a court of the county having jurisdiction, and detain them in custody until the cause of the arrest has been investigated;

(2) suppress breaches of the peace, calling the power of the county to ~~his~~ **the sheriff's** aid if necessary;

(3) pursue and jail felons;

(4) execute all process directed to ~~him~~ **the sheriff** by legal authority;

(5) serve all process directed to ~~him~~ **the sheriff** from a court or the county executive;

(6) attend and preserve order in all courts of the county;

(7) take care of the county jail and the prisoners there; ~~and~~

(8) take photographs, fingerprints, and other identification data as ~~he~~ **the sheriff** shall prescribe of persons taken into custody for felonies or misdemeanors; **and**

(9) on or before January 31 and June 30 of each year, provide to the department of correction the average daily cost of incarcerating a prisoner in the county jail as determined under the methodology developed by the department of correction under IC 11-10-13.

(b) A person who:

(1) refuses to be photographed;

(2) refuses to be fingerprinted;

(3) withholds information; or

(4) gives false information;

as prescribed in subsection (a)(8), commits a Class C misdemeanor.

SECTION 13. [EFFECTIVE JULY 1, 2004] **(a) As used in this SECTION, "committee" refers to the forensic diversion study committee established by subsection (c).**

(b) As used in this SECTION, "forensic diversion program" means the program established under IC 11-12-3.7, as added by this act, and any similar program that treats persons charged with or convicted of offenses eligible for forensic diversion who have a mental illness or addictive disorder.

(c) There is established the forensic diversion study committee. The committee shall:

(1) evaluate the effectiveness and appropriateness of forensic diversion programs within Indiana and in other jurisdictions; and

(2) review the adequacy of funding provided for forensic diversion programs.

(d) The committee consists of fifteen (15) members appointed as follows:

(1) Two (2) members of the senate, who may not be affiliated with the same political party, to be appointed by the president pro tempore of the senate.

(2) Two (2) members of the house of representatives, who may not be affiliated with the same political party, to be appointed by the speaker of the house of representatives.

(3) The chief justice of the supreme court or the chief justice's designee.

(4) The commissioner of the department of correction or the commissioner's designee.

(5) The director of the Indiana criminal justice institute or the director's designee.

(6) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.

(7) The executive director of the public defender of Indiana council or the executive director's designee.

(8) The secretary of family and social services, or the secretary's designee.

(9) One (1) person with experience in administering community corrections programs, appointed by the governor.

(10) One (1) person with experience in administering probation programs, appointed by the governor.

(11) One (1) person with experience in treating mental illness, appointed by the governor.

(12) One (1) person with experience in treating addictive disorders, appointed by the governor.

(13) Two (2) judges who exercise criminal jurisdiction, who may not be affiliated with the same political party, appointed by the governor.

(14) One (1) law enforcement officer with experience in programs that provide alternatives to incarceration for persons with mental illness or addictive disorders, appointed by the governor.

(e) The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman of the legislative council may remove the chair of the committee and appoint another chair.

(f) If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

(g) A legislative member of the committee may be removed at any time by the authority who appointed the legislative member.

(h) If a vacancy exists on the committee, the authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

(i) The committee shall submit a final report of its study to the legislative council before November 1, 2007.

(j) The Indiana criminal justice institute shall provide staff support to the committee.

(k) Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

(l) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including the final report.

(m) The committee:

(1) shall meet at the call of the chair; and

(2) may meet at any time before October 15, 2007.

(n) Except as otherwise specifically provided by this act, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this SECTION shall be paid from appropriations to the legislative council and legislative services agency.

(o) This SECTION expires December 31, 2007.

SECTION 14. IC 11-12-3.5 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 15. IC 33-34-8-1, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The following fees and costs apply to cases in the small claims court:

(1) A township docket fee of five dollars ($5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-37-4-2.

(2) The bailiff's service of process by registered or certified mail

fee of thirteen dollars ($13) for each service.

(3) The cost for the personal service of process by the bailiff or other process server of thirteen dollars ($13) for each service.

(4) Witness fees, if any, in the amount provided by IC 33-37-10-3 to be taxed and charged in the circuit court.

(5) A redocketing fee, if any, of five dollars ($5).

(6) A document storage fee under IC 33-37-5-20.

(7) An automated record keeping fee under IC 33-37-5-21.

(8) A late fee, if any, under IC 33-37-5-22.

(9) A judicial administration fee under IC 33-37-5-21.2.

The docket fee and the cost for the initial service of process shall be paid at the institution of a case. The cost of service after the initial service shall be assessed and paid after service has been made. The cost of witness fees shall be paid before the witnesses are called.

(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 16. IC 33-37-4-1, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars ($120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) A marijuana eradication program fee (IC 33-37-5-7).

(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).

(5) A drug abuse, prosecution, interdiction, and correction fee (IC 33-37-5-9).

(6) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(7) A child abuse prevention fee (IC 33-37-5-12).

(8) A domestic violence prevention and treatment fee (IC 33-37-5-13).

(9) A highway work zone fee (IC 33-37-5-14).

(10) A deferred prosecution fee (IC 33-37-5-17).

(11) A document storage fee (IC 33-37-5-20).

(12) An automated record keeping fee (IC 33-37-5-21).

(13) A late payment fee (IC 33-37-5-22).

(14) A sexual assault victims assistance fee (IC 33-37-5-23).

(15) A judicial administration fee under IC 33-37-5-21.2.

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement between the prosecuting attorney and the accused person entered into under IC 33-39-1-8 requires payment of those fees by the accused person. The pretrial diversion program fee is:

(1) an initial user's fee of fifty dollars ($50); and

(2) a monthly user's fee of ten dollars ($10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, not later than thirty (30) days after the fees are collected:

(1) The pretrial diversion fee.

(2) The marijuana eradication program fee.

(3) The alcohol and drug services program user fee.

(4) The law enforcement continuing education program fee.

The auditor or fiscal officer shall deposit fees transferred under this subsection in the appropriate user fee fund established under IC 33-37-8.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

(1) The clerk shall apply the partial payment to general court costs.

(2) If there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the remainder of the partial payment for deposit in the appropriate county user fee fund.

(3) If there is money remaining after distribution under subdivision (2), the clerk shall distribute the remainder of the partial payment for deposit in the state user fee fund.

(4) If there is money remaining after distribution under subdivision (3), the clerk shall distribute the remainder of the partial payment to any other applicable user fee fund.

(5) If there is money remaining after distribution under subdivision (4), the clerk shall apply the remainder of the partial payment to any outstanding fines owed by the defendant.

SECTION 17. IC 33-37-4-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

(1) for a violation constituting an infraction; or

(2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars ($70).

(b) In addition to the infraction or ordinance violation costs fee collected under this section, the clerk shall collect from the defendant the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).

(2) An alcohol and drug services program user fee (IC 33-37-5-8(b)).

(3) A law enforcement continuing education program fee IC 33-37-5-8(c)).

(4) An alcohol and drug countermeasures fee (IC 33-37-5-10).

(5) A highway work zone fee (IC 33-37-5-14).

(6) A deferred prosecution fee (IC 33-37-5-17).

(7) A jury fee (IC 33-19-6-17). (IC 33-37-5-19).

(8) A document storage fee (IC 33-37-5-20).

(9) An automated record keeping fee (IC 33-37-5-21).

(10) A late payment fee (IC 33-37-5-22).

(11) A judicial administration fee under IC 33-37-5-21.2.

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, not later than thirty (30) days after the fees are collected:

(1) The alcohol and drug services program user fee (IC 33-37-5-8(b)).

(2) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

(3) The deferral program fee (subsection e).

The auditor or fiscal officer shall deposit the fees in the user fee fund established under IC 33-37-8.

(d) The defendant is not liable for any ordinance violation costs fee in an action if all the following apply:

(1) The defendant was charged with an ordinance violation subject to IC 33-36.

(2) The defendant denied the violation under IC 33-36-3.

(3) Proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal).

(4) The defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

(1) an initial user's fee not to exceed fifty-two dollars ($52); and

(2) a monthly user's fee not to exceed ten dollars ($10) for each month the person remains in the deferral program.

(f) The fees prescribed by this section are costs for purposes of IC 34-28-5-4 and may be collected from a defendant against whom judgment is entered. Any penalty assessed is in addition to costs.

SECTION 18. IC 33-37-4-3, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The clerk shall collect a juvenile costs fee of one hundred twenty dollars ($120) for each action filed under any of the following

(1) IC 31-34 (children in need of services).
(2) IC 31-37 (delinquent children).
(3) IC 31-14 (paternity).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A marijuana eradication program fee (IC 33-37-5-7).
(3) An alcohol and drug services program user fee (IC 33-37-5-8(b)).
(4) A law enforcement continuing education program fee (IC 33-37-5-8(c)).
(5) An alcohol and drug countermeasures fee (IC 33-37-5-10).
(6) A document storage fee (IC 33-37-5-20).
(7) An automated record keeping fee (IC 33-37-5-21).
(8) A late payment fee (IC 33-37-5-22).
(9) A judicial administration fee under IC 33-37-5-21.2.

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees not later than thirty (30) days after they are collected:

(1) The marijuana eradication program fee (IC 33-37-5-7).
(2) The alcohol and drug services program user fee (IC 33-37-5-8(b)).
(3) The law enforcement continuing education program fee (IC 33-37-5-8(c)).

The auditor or fiscal officer shall deposit the fees in the appropriate user fee fund established under IC 33-37-8.

SECTION 19. IC 33-37-4-4, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars ($100) from a party filing a civil action. This subsection does not apply to the following civil actions:

(1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
(2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
(3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
(4) Proceedings in paternity under IC 31-14.
(5) Proceedings in small claims court under IC 33-34.
(6) Proceedings in actions described in section 7 of this chapter.

(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A support and maintenance fee (IC 33-37-5-6).
(3) A document storage fee (IC 33-37-5-20).
(4) An automated record keeping fee (IC 33-37-5-21).
(5) A judicial administration fee under IC 33-37-5-21.2.

SECTION 20. IC 33-37-4-5, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) For each small claims action the clerk shall collect from the party filing the action a small claims costs fee of thirty-five dollars ($35). However, a clerk may not collect a small claims costs fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A document storage fee (IC 33-37-5-20).
(3) An automated record keeping fee (IC 33-37-5-21).
(4) A judicial administration fee under IC 33-37-5-21.2.

(c) This section expires July 1, 2005.

SECTION 21. IC 33-37-4-6, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) For each small claims action, the clerk shall collect from the party filing the action both of the following fees:

(1) A small claims costs fee of thirty-five dollars ($35).
(2) A small claims service fee of five dollars ($5) for each defendant named or added in the small claims action.

However, a clerk may not collect a small claims costs fee or small claims service fee for a small claims action filed by or on behalf of the attorney general.

(b) In addition to a small claims costs fee and small claims service fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A document storage fee (IC 33-37-5-20).
(3) An automated record keeping fee (IC 33-37-5-21).
(4) A judicial administration fee under IC 33-37-5-21.2.

(c) This section applies after June 30, 2005.

SECTION 22. IC 33-37-4-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as provided under subsection (c), the clerk shall collect from the party filing the action a probate costs fee of one hundred twenty dollars ($120) for each action filed under any of the following:

(1) IC 6-4.1-5 (determination of inheritance tax).
(2) IC 29 (probate).
(3) IC 30 (trusts and fiduciaries).

(b) In addition to the probate costs fee collected under subsection (a), the clerk shall collect from the party filing the action the following fees, if they are required under IC 33-37-5:

(1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
(2) A document storage fee (IC 33-37-5-20).
(3) An automated record keeping fee (IC 33-37-5-21).
(4) A judicial administration fee under IC 33-37-5-21.2.

(c) A clerk may not collect a court costs fee for the filing of the following exempted actions:

(1) Petition to open a safety deposit box.
(2) Filing an inheritance tax return, unless proceedings other than the court's approval of the return become necessary.
(3) Offering a will for probate under IC 29-1-7, unless proceedings other than admitting the will to probate become necessary.

SECTION 23. IC 33-37-5-21.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 21.2. (a) This subsection does not apply to the following:**

(1) A criminal proceeding.
(2) A proceeding for an infraction violation.
(3) A proceeding for an ordinance violation.

In each action filed in a court described in IC 33-37-1-1, the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar ($1) and after June 30, 2005, two dollars ($2).

(b) In each action in which a person is:

(1) convicted of an offense;
(2) required to pay a pretrial diversion fee;
(3) found to have violated an infraction; or
(4) found to have violated an ordinance;

the clerk shall collect a judicial administration fee of, in the period beginning July 1, 2004, and ending June 30, 2005, one dollar ($1) and after June 30, 2005, two dollars ($2).

SECTION 24. IC 33-37-7-1, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).
(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
(3) IC 33-37-4-3(a) (juvenile costs fees).
(4) IC 33-37-4-4(a) (civil costs fees).
(5) IC 33-37-4-5(a) (small claims costs fees).
(6) IC 33-37-4-7(a) (probate costs fees).
(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established by

IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under, IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.

~~(h)~~ **(i)** This section expires July 1, 2005.

SECTION 25. IC 33-37-7-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-3(a) (juvenile costs fees).

(4) IC 33-37-4-4(a) (civil costs fees).

(5) IC 33-37-4-6(a)(1) (small claims costs fees).

(6) IC 33-37-4-7(a) (probate costs fees).

(7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).

(4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).

(5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance fund established by IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(2) for deposit in the county general fund.

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.

~~(i)~~ **(j)** This section applies after June 30, 2005.

SECTION 26. IC 33-37-7-7, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-5 (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established by IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall monthly distribute to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration fee collected under IC 33-37-5-21.2.

~~(g)~~ **(h)** This section expires July 1, 2005.

SECTION 27. IC 33-37-7-8, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(b) The city or town fiscal officer shall distribute monthly to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1) (small claims costs fees).

(5) IC 33-37-5-17 (deferred prosecution fees).

(d) The clerk of a city or town court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9 the following:

(1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

(3) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).

(4) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.

(5) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(e) The clerk of a city or town court shall distribute monthly to the county auditor the following:

(1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-37-4-1(b)(5).

(2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial administration

fee collected under IC 33-37-5-21.2.

~~(g)~~ **(h)** This section applies after June 30, 2005.

SECTION 28. IC 33-37-7-9, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state six million seven hundred four thousand two hundred fifty-seven dollars ($6,704,257) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

(1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to eleven and eight-hundredths percent (11.08%);

(2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to twenty-five and twenty-one hundredths percent (25.21%);

(3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to three and fifty-two hundredths percent (3.52%);

(4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to fourteen and nineteen-hundredths percent (14.19%);

(5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to sixteen and fifty-hundredths percent (16.50%);

(6) the motor vehicle highway account an amount equal to twenty-six and ninety-five hundredths percent (26.95%);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to thirty-two hundredths of one percent (0.32%); and

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and twenty-three hundredths percent (2.23%);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year the auditor of state shall transfer to the treasurer of state **for deposit into the public defense fund established under IC 33-40-6-1:**

(1) after June 30, 2004, and before July 1, 2005, one million ~~two~~ **seven** hundred thousand dollars ~~($1,200,000)~~ **($1,700,000)** ~~for deposit into the public defense fund established under IC 33-40-6-1~~; **and**

(2) after June 30, 2005, two million two hundred thousand dollars ($2,200,000).

SECTION 29. IC 33-40-6-6, AS ADDED BY SEA 263-2004, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. ~~(a) If the public defense fund would be reduced below two hundred fifty thousand dollars ($250,000) by payment in full of all county reimbursement for net expenditures in noncapital cases that is certified by the division of state court administration in any quarter, the public defender commission shall suspend payment of reimbursement to counties in noncapital cases until the next semiannual deposit in the public defense fund. At the end of the suspension period, the division of state court administration shall certify all suspended reimbursement.~~

~~(b) If the public defense fund would be reduced below two hundred fifty thousand dollars ($250,000) by payment in full of all suspended reimbursement in noncapital cases, the amount certified by the division of state court administration for each county entitled to reimbursement shall be prorated.~~ **The commission shall give priority to certified claims for reimbursement in capital cases. If the balance in the public defense fund is not adequate to fully reimburse all certified claims in noncapital cases, the commission shall prorate reimbursement of certified claims in noncapital cases.**

SECTION 30. IC 11-8-1-5.6, AS AMENDED BY P.L.291-2001, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.6. "Community transition program commencement date" means the following:

(1) **Not earlier than** sixty (60) days **and not later than thirty (30) days** before an offender's expected release date, if the most serious offense for which the person is committed is a Class D felony.

(2) **Not earlier than** ninety (90) days **and not later than thirty (30) days** before an offender's expected release date, if the most serious offense for which the person is committed is a Class C felony and subdivision (3) does not apply.

(3) **Not earlier than** one hundred twenty (120) days **and not later than thirty (30) days** before an offender's expected release date, if:

(A) the most serious offense for which the person is committed is a Class C felony;

(B) all of the offenses for which the person was concurrently or consecutively sentenced are offenses under IC 16-42-19 or IC 35-48-4; and

(C) none of the offenses for which the person was concurrently or consecutively sentenced are listed in IC 35-50-2-2(b)(4).

(4) **Not earlier than** one hundred twenty (120) days **and not later than thirty (30) days** before an offender's expected release date, if the most serious offense for which the person is committed is a Class A or Class B felony and subdivision (5) does not apply.

(5) **Not earlier than** one hundred eighty (180) days **and not later than thirty (30) days** before an offender's expected release date, if:

(A) the most serious offense for which the person is committed is a Class A or Class B felony;

(B) all of the offenses for which the person was concurrently or consecutively sentenced are offenses under IC 16-42-19 or IC 35-48-4; and

(C) none of the offenses for which the person was concurrently or consecutively sentenced are listed in IC 35-50-2-2(b)(4).

SECTION 31. IC 11-10-11.5-1, AS AMENDED BY P.L.90-2000, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. This chapter applies to a person:

(1) who is committed to the department under IC 35-50 for one (1) or more felonies; ~~other than murder;~~ and

(2) against whom a court imposed a sentence of at least two (2) years.

SECTION 32. IC 11-10-11.5-2, AS AMENDED BY P.L.90-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** Not earlier than sixty (60) days and not later than forty-five (45) days before an offender's community transition program commencement date, the department shall give written notice of the offender's eligibility for a community transition program to each court that sentenced the offender for a period of imprisonment that the offender is still actively serving. The notice must include the following information:

(1) The person's name.

(2) A description of the offenses for which the person was committed to the department.

(3) The person's expected release date.

(4) The person's community transition program commencement date **designated by the department.**

(5) The person's current security and credit time classifications.

(6) A report summarizing the person's conduct while committed to the department.

(7) Any other information that the department determines would assist the sentencing court in determining whether to issue an order under IC 35-38-1-24 or IC 35-38-1-25.

(b) ~~However,~~ If the offender's expected release date changes as the result of the ~~gain or~~ loss of credit time after notice is sent to each court under this section, the offender may become ineligible for a community transition program.

(c) If the offender's expected release date changes as the result of the gain of credit time after notice is sent to each court under this section, the offender may be assigned to a community transition program if the department determines that:

(1) a sufficient amount of time exists to allow a court under IC 35-38-1-24 or IC 35-38-1-25 to consider a written statement described in section 4.5 of this chapter; and

(2) an offender will have at least thirty (30) days remaining on the offender's sentence after the court's consideration of a written statement under subdivision (1), calculated as follows:

(A) Beginning on the date the department will assign the offender to a minimum security classification and place the offender in a community transition program.

(B) Ending with the recalculated expected release date.

(d) The department shall notify each court whenever the department finds that an offender is ineligible for the program because of a change in the person's credit time.

SECTION 33. IC 11-10-11.5-4.5, AS ADDED BY P.L.90-2000, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) Before the department may assign an offender to a minimum security classification and place the offender in a community transition program, the department shall notify:

(1) the offender and any victim of the offender's crime of the right to submit a written statement regarding the offender's assignment to the community transition program; **and**

(2) the offender of the right to submit a written statement objecting to the offender's placement in a community transition program;

to each court that sentenced the offender to a period of imprisonment that the offender is actively serving. If the name or address of a victim of the offender's crime changes after the offender is sentenced for the offense, and the offender's sentence may result in the offender's assignment to the community transition program, the victim is responsible for notifying the department of the name or address change.

(b) An offender or a victim of the offender's crime who wishes to submit a written statement under ~~this section~~ **subsection (a)(1)** must submit the statement to each court **and the department** not later than ten (10) working days after receiving notice from the department under subsection (a).

(c) An offender's written statement objecting to the offender's placement in a community transition program under subsection (a)(2) must be submitted to each court and the department:

(1) not later than ten (10) working days after receiving notice from the department under subsection (a); or

(2) before the offender is transported under section 7 of this chapter;

whichever occurs first.

SECTION 34. IC 11-10-11.5-5, AS AMENDED BY P.L.90-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) This section applies to a person if the most serious offense for which the person is committed is a Class C or Class D felony.

(b) Unless the department has received:

(1) an order under IC 35-38-1-24; or

(2) a warrant order of detainer seeking the transfer of the person to a county or another jurisdiction;

the department shall assign a person to a minimum security classification and place the person in a community transition program beginning with the ~~person's~~ community transition program commencement date **designated by the department** until the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term.

SECTION 35. IC 11-10-11.5-7, AS ADDED BY P.L.273-1999, SECTION 208, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. Not later than ~~the first~~ **seven (7)** regular business ~~day~~ **days** after a person is assigned to a community transition program under this chapter, the department shall:

(1) comply with the procedures in IC 11-10-12-1(a)(1) and IC 11-10-12-1(a)(2); and

(2) transport the person to:

(A) the sheriff of the county where the person's case originated; ~~or to~~

(B) any other person ordered by the sentencing court; **or**

(C) a person or an entity designated by the supervising authority of the community transition program to which the person is assigned.

The department may, upon request of the person, issue the work clothing described in IC 11-10-12-1(b).

SECTION 36. IC 11-10-11.5-8, AS AMENDED BY P.L.90-2000, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The person **or entity** receiving the offender under section 7 of this chapter shall transfer the offender to the intake person for the community transition program.

(b) As soon as is practicable after receiving the offender, the community transition program shall

~~(1)~~ provide the offender with a reasonable opportunity to review the rules and conditions applicable to the offender's assignment in the program. ~~and~~

~~(2) obtain the offender's written agreement to abide by all of the rules and conditions of the program.~~

(c) ~~A~~ **The department may take disciplinary action under IC 11-11-5 against an offender who:**

(1) has been assigned to a minimum security classification and placed in a community transition program; and

(2) refuses to participate in the community transition program. ~~shall provide an offender with a written document stating that any offender who is assigned to a community transition program participates in the program on a voluntary basis. An offender must agree in writing that the offender's participation in the program is voluntary, before the offender may be allowed to participate in the program.~~

SECTION 37. IC 11-10-11.5-11.5, AS ADDED BY P.L.90-2000, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11.5. (a) **Except as provided in section 4.5 of this chapter,** an offender is **not** entitled to refuse to be placed into a community transition program. However, ~~if~~ the offender ~~does not refuse the placement and agrees in writing to voluntarily participate, as required by section 8 of this chapter, the offender is considered to participate in the community transition program on a voluntary basis.~~ **may request that an assignment to a community transition program be delayed if the offender will be enrolled in department programming on the community transition program commencement date designated by the department.**

(b) The community transition program, **following a hearing and** upon a finding of probable cause that the offender has failed to comply with a rule or condition under section 11 of this chapter, ~~shall cause the department to:~~ **may:**

(1) **request a court to issue a warrant ordering the department to** immediately:

(A) return the offender to the department; ~~and~~ **or**

~~(2)~~ **(B)** reassign the offender to a program or facility administered by the department; **or**

(2) take disciplinary action against an offender who violates rules of conduct. Disciplinary action under this subdivision may include the loss of earned credit time under IC 35-50-6-5.

(c) An offender who is returned to the department under subsection (b) is not eligible for assignment to another community transition program for the duration of the sentence or sentences the offender is actively serving.

SECTION 38. IC 11-11-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. **(a)** A person may be prohibited from visiting a confined person, or the visit may be restricted to an extent greater than allowed under section 8 of this chapter, if the department has reasonable grounds to believe that the visit would threaten the security of the facility or program or the safety of individuals.

(b) The department may restrict any person less than eighteen (18) years of age from visiting an offender, if:

(1) the offender has been:

(A) convicted of a sex offense under IC 35-42-4; or

(B) adjudicated delinquent as a result of an act that would be considered a sex offense under IC 35-42-4 if committed by an adult; and

(2) the victim of the sex offense was less than eighteen (18) years of age at the time of the offense.

(c) If the department prohibits or restricts visitation between a confined person and another person under this section, it shall notify the confined person of that prohibition or restriction. The notice must

be in writing and include the reason for the action, the name of the person who made the decision, and the fact that the action may be challenged through the grievance procedure.

(d) The department shall establish written guidelines for implementing this section.

SECTION 39. IC 35-38-1-25, AS AMENDED BY P.L.90-2000, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) This section applies to a person if the most serious offense for which the person is committed is **murder,** a Class A **felony,** or **a** Class B felony.

(b) A sentencing court may sentence a person or modify the sentence of a person to assign the person to a community transition program for any period that begins after the person's community transition program commencement date (as defined in IC 11-8-1-5.6) and ends when the person completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to the term, if the court makes specific findings of fact that support a determination that it is in the best interests of justice to make the assignment. The order may include any other condition that the court could impose if the court had placed the person on probation under IC 35-38-2 or in a community corrections program under IC 35-38-2.6.

(c) The court may make a determination under this section without a hearing. The court shall consider any written statement presented to the court by a victim of the offender's crime or by an offender under IC 11-10-11.5-4.5. The court in its discretion may consider statements submitted by a victim after the time allowed for the submission of statements under IC 11-10-11.5-4.5.

(d) The court shall make written findings for a determination under this section, whether or not a hearing was held.

(e) Not later than five (5) days after making a determination under this section, the court shall send a copy of the order to the:

(1) prosecuting attorney where the person's case originated; and

(2) department of correction.

SECTION 40. IC 5-2-1-9, AS AMENDED BY P.L.45-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. Such rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, the northwest Indiana law enforcement training center, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers not appointed for probationary terms but appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which in such cases shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e) and (l), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at the northwest Indiana law enforcement training center under section 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, use of force, and firearm qualification. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of forty (40) hours of course work. The board may prepare a pre-basic course on videotape that must be used in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including colleges and universities.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed the basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes a minimum of sixteen (16) hours each year of inservice training in any subject area included in the law enforcement academy's basic training course or other job related subjects that are approved by the board as determined by the law enforcement department's or agency's needs. **Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to**

be provided by persons approved by the secretary of family and social services and the law enforcement training board. In addition, a certified academy staff may develop and make available inservice training programs on a regional or local basis. The board may approve courses offered by other public or private training entities, including colleges and universities, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to any of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having no more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal basic training program.

(i) The board shall adopt rules under IC 4-22-2 to establish a police chief executive training program. The program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Firearm policies.

(7) Department programs.

(j) A police chief shall apply for admission to the police chief executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the police chief executive training program within six (6) months of the date the police chief initially takes office. However, if space in the program is not available at a time that will allow the police chief to complete the program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available program that is offered to the police chief after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not serve as the police chief until the police chief has completed the police chief executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city; and

(2) the police chief of any town having a metropolitan police department.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the police chief executive training program.

(l) An investigator in the arson division of the office of the state fire marshal appointed:

(1) before January 1, 1994, is not required; or

(2) after December 31, 1993, is required;

to comply with the basic training standards established under this section.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

SECTION 41. IC 11-8-2-8, AS AMENDED BY P.L.25-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) All officers and employees of the department, with the exception of the members of the board, members of the parole board, the commissioner, any deputy commissioner, and any superintendent, are within the scope of IC 4-15-2.

(b) IC 11-10-5 applies to teachers employed under that chapter, notwithstanding IC 4-15-2.

(c) The department shall cooperate with the state personnel department in establishing minimum qualification standards for employees of the department and in establishing a system of personnel recruitment, selection, employment, and distribution.

(d) The department shall conduct training programs designed to equip employees for duty in its facilities and programs and raise their level of performance. Training programs conducted by the department need not be limited to inservice training. They may include preemployment training, internship programs, and scholarship programs in cooperation with appropriate agencies. When funds are appropriated, the department may provide educational stipends or tuition reimbursement in such amounts and under such conditions as may be determined by the department and the personnel division.

(e) The department shall conduct a training program on cultural diversity awareness that must be a required course for each employee of the department who has contact with incarcerated persons.

(f) **The department shall provide six (6) hours of training to employees who interact with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities concerning the interaction, to be taught by persons approved by the secretary of family and social services, using teaching methods approved by the secretary of family and social services and the commissioner. The commissioner or the commissioner's designee may credit hours of substantially similar training received by an employee toward the required six (6) hours of training.**

(g) The department shall establish a correctional officer training program with a curriculum, and administration by agencies, to be determined by the commissioner. A certificate of completion shall be issued to any person satisfactorily completing the training program. A certificate may also be issued to any person who has received training in another jurisdiction if the commissioner determines that the training was at least equivalent to the training program maintained under this subsection.

SECTION 42. IC 11-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **(a)** For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system and providing effective alternatives to imprisonment at the state level, the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections programs. Appropriations intended for this purpose may not be used by the department for any other purpose. Money appropriated to the department of correction for the purpose of making grants under this chapter, and charges made against a county under section 9, do not revert to the state general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants under this chapter.

(b) The commissioner shall give priority in issuing community corrections grants to programs that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities.

SECTION 43. IC 11-12-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) As used in this section, "jail officer" means a person whose duties include the daily or ongoing supervision of county jail inmates.

(b) A person may be confined in the county jail only if there is a jail officer stationed in the jail.

(c) A jail officer whose employment begins after December 31, 1985, shall complete the training required by this section during the first year of employment. This subsection does not apply to a jail officer who:

(1) has successfully completed minimum basic training requirements (other than training completed under IC 5-2-1-9(h)) for law enforcement officers established by the

law enforcement training board; or

(2) is a law enforcement officer and is exempt from the training requirements of IC 5-2-1. For purposes of this subdivision, completion of the training requirements of IC 5-2-1-9(h) does not exempt an officer from the minimum basic training requirements of IC 5-2-1.

(d) The law enforcement training board shall develop a forty (40) hour program for the specialized training of jail officers. **The program training must include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the law enforcement training board.** The **remainder of the** training shall be provided by the board.

(e) The board shall certify each person who successfully completes such a training program.

(f) The department shall pay the cost of training each jail officer.

SECTION 44. IC 11-13-1-8, AS AMENDED BY SEA 263-2004, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) As used in this section, "board" refers to the board of directors of the judicial conference of Indiana established by ~~IC 33-33-9-3.~~ **IC 33-38-9-3.**

(b) The board shall adopt rules consistent with this chapter, prescribing minimum standards concerning:

(1) educational and occupational qualifications for employment as a probation officer;

(2) compensation of probation officers;

(3) protection of probation records and disclosure of information contained in those records; and

(4) presentence investigation reports.

(c) The conference shall prepare a written examination to be used in establishing lists of persons eligible for appointment as probation officers. The conference shall prescribe the qualifications for entrance to the examination and establish a minimum passing score and rules for the administration of the examination after obtaining recommendations on these matters from the probation standards and practices advisory committee. The examination must be offered at least once every other month.

(d) The conference shall, by its rules, establish an effective date for the minimum standards and written examination for probation officers.

(e) The conference shall provide probation departments with training and technical assistance for:

(1) the implementation and management of probation case classification; and

(2) the development and use of workload information.

The staff of the Indiana judicial center may include a probation case management coordinator and probation case management assistant.

(f) The conference shall, in cooperation with the division of family and children and the department of education, provide probation departments with training and technical assistance relating to special education services and programs that may be available for delinquent children or children in need of services. The subjects addressed by the training and technical assistance must include the following:

(1) Eligibility standards.

(2) Testing requirements and procedures.

(3) Procedures and requirements for placement in programs provided by school corporations or special education cooperatives under IC 20-1-6.

(4) Procedures and requirements for placement in residential special education institutions or facilities under IC 20-1-6-19 and ~~511 IAC 7-12-5.~~ **511 IAC 7-27-12.**

(5) Development and implementation of individual education programs for eligible children in:

(A) accordance with applicable requirements of state and federal laws and rules; and

(B) in coordination with:

(i) individual case plans; and

(ii) informal adjustment programs or dispositional decrees entered by courts having juvenile jurisdiction under IC 31-34 and IC 31-37.

(6) Sources of federal, state, and local funding that is or may be available to support special education programs for children for whom proceedings have been initiated under IC 31-34 and IC 31-37.

Training for probation departments may be provided jointly with training provided to child welfare caseworkers relating to the same subject matter.

(g) **The conference shall, in cooperation with the division of mental health and addiction (IC 12-21) and the division of disability, aging, and rehabilitative services (IC 12-9-1), provide probation departments with training and technical assistance concerning mental illness, addictive disorders, mental retardation, and developmental disabilities.**

(h) The conference shall make recommendations to courts and probation departments concerning:

(1) selection, training, distribution, and removal of probation officers;

(2) methods and procedure for the administration of probation, including investigation, supervision, workloads, record keeping, and reporting; and

(3) use of citizen volunteers and public and private agencies.

~~(h)~~ **(i)** The conference may delegate any of the functions described in this section to the advisory committee or the Indiana judicial center.

SECTION 45. [EFFECTIVE JULY 1, 2004] **(a) IC 5-2-1-9, IC 11-8-2-8, and IC 11-12-4-4, all as amended by this act, do not require a training program for interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities until January 1, 2005.**

(b) This SECTION expires January 1, 2005.

SECTION 46. [EFFECTIVE JULY 1, 2004] **(a) IC 11-12-2-1, as amended by this act, does not apply to the issuing of community corrections grants that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities by the commissioner of the department of correction until January 1, 2005.**

(b) This SECTION expires January 1, 2005.

SECTION 47. [EFFECTIVE JULY 1, 2004] **(a) IC 11-13-1-8, as amended by this act, does not require the judicial conference of Indiana, the division of mental health, and the division of disability, aging, and rehabilitative services to provide probation departments with training and technical assistance concerning mental illness, addictive disorders, mental retardation, and developmental disabilities until January 1, 2005.**

(b) This SECTION expires January 1, 2005.

SECTION 48. IC 9-30-5-15, AS AMENDED BY P.L.32-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least five (5) days; or

(B) the person to perform at least ~~thirty (30) days~~ **one hundred eighty (180) hours** of community restitution or service; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has one (1) previous conviction of operating while intoxicated.

(b) In addition to any criminal penalty imposed for an offense under this chapter, the court shall:

(1) order:

(A) that the person be imprisoned for at least ten (10) days; or

(B) the person to perform at least ~~sixty (60) days~~ **three hundred sixty (360) hours** of community restitution or service; and

(2) order the person to receive an assessment of the person's degree of alcohol and drug abuse and, if appropriate, to successfully complete an alcohol or drug abuse treatment program, including an alcohol deterrent program if the person suffers from alcohol abuse;

if the person has at least two (2) previous convictions of operating while intoxicated.

(c) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence imposed under this section may not be suspended. The court may require that the person serve the term of imprisonment in an appropriate facility at whatever time or intervals (consecutive or intermittent) determined appropriate by the court. However:

(1) at least forty-eight (48) hours of the sentence must be served consecutively; and

(2) the entire sentence must be served within six (6) months after the date of sentencing.

(d) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a sentence imposed under this section.

SECTION 49. IC 20-10.1-22.4-3, AS AMENDED BY P.L.2-2003, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) As used in this section, "juvenile justice agency" has the meaning set forth in IC 10-13-4-5.

(b) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply may disclose or report on the education records of a child, including personally identifiable information contained in the education records, without the consent of the child's parent, guardian, or custodian, under the following conditions:

(1) The disclosure or reporting of education records is to a state or local juvenile justice agency.

(2) The disclosure or reporting relates to the ability of the juvenile justice system to serve, before adjudication, the student whose records are being released.

(3) The juvenile justice agency receiving the information certifies, in writing, to the entity providing the information that the agency or individual receiving the information has agreed not to disclose it to a third party, other than another juvenile justice agency, without the consent of the child's parent, guardian, or custodian.

(c) For purposes of subsection (b)(2), a disclosure or reporting of education records concerning a child who has been adjudicated as a delinquent child shall be treated as related to the ability of the juvenile justice system to serve the child before adjudication if the juvenile justice agency seeking the information provides sufficient information to enable the keeper of the education records to determine that the juvenile justice agency seeks the information in order to identify and intervene with the child as a juvenile at risk of delinquency rather than to obtain information solely related to supervision of the child as an adjudicated delinquent child.

(d) A school corporation or other entity to which the education records privacy provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g) apply that:

(1) discloses or reports on the education records of a child, including personally identifiable information contained in the education records, in violation of this section; and

(2) makes a good faith effort to comply with this section;

is immune from civil liability.

SECTION 50. IC 31-9-2-113.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 113.5. "School", for purposes of IC 31-39-2-13.8, means a:**

(1) public school (including a charter school as defined in IC 20-5.5-1-4); or

(2) non-public school (as defined in IC 20-10.1-1-3);

that must comply with the education records privacy provisions of the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) to be eligible to receive designated federal education funding.

SECTION 51. IC 31-39-2-13.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13.8. (a) The juvenile court may grant a school access to all or a portion of the juvenile court records of a child who is a student at the school if:**

(1) the superintendent, or the superintendent's designee;

(2) the chief administrative officer of a nonpublic school, or the chief administrative officer's designee; or

(3) the individual with administrative control within a charter school, or the individual's designee;

submits a written request that meets the requirements of subsection (b).

(b) A written request must establish that the juvenile court records described in subsection (a) are necessary for the school to:

(1) serve the educational needs of the child whose records are being released; or

(2) protect the safety or health of a student, an employee, or a volunteer at the school.

(c) A juvenile court that releases juvenile court records under this section shall provide notice to the child and to the child's parent, guardian, or custodian that the child's juvenile records have been disclosed to the school.

(d) A juvenile court that releases juvenile court records under this section shall issue an order requiring the school to keep the juvenile court records confidential. A confidentiality order issued under this subsection does not prohibit a school that receives juvenile court records from forwarding the juvenile records to:

(1) another school; or

(2) a person if a parent, guardian, or custodian of the child consents to the release of the juvenile court records to the person.

A school or a person that receives juvenile court records under this subsection must keep the juvenile court records confidential.

SECTION 52. IC 34-30-2-85.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 85.5. IC 20-10.1-22.4-3 (Concerning the disclosure or reporting of education records of a child).**

SECTION 53. IC 35-42-2-6, AS AMENDED BY P.L.88-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this section, "corrections officer" includes a person employed by:

(1) the department of correction;

(2) a law enforcement agency; ~~or~~

(3) a county jail; **or**

(4) a circuit, superior, county, probate, city, or town court.

(b) As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

(c) A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer or a corrections officer identified as such and while engaged in the performance of official duties or coerces another person to place blood or another body fluid or waste on the law enforcement officer or corrections officer commits battery by body waste, a Class D felony. However, the offense is:

(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:

(A) hepatitis B;

(B) HIV; or

(C) tuberculosis;

(2) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with hepatitis B and the offense results in the transmission of hepatitis B to the other person; or

(B) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class A felony if:

(A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

(d) A person who knowingly or intentionally in a rude, an insolent, or an angry manner places human blood, semen, urine, or fecal waste on another person commits battery by body waste, a Class A misdemeanor. However, the offense is:

(1) a Class D felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected

with:

(A) hepatitis B;

(B) HIV; or

(C) tuberculosis;

(2) a Class C felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with hepatitis B and the offense results in the transmission of hepatitis B to the other person; or

(B) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class B felony if:

(A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with HIV; and

(B) the offense results in the transmission of HIV to the other person.

SECTION 54. IC 35-50-5-3, AS AMENDED BY P.L.88-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Except as provided in subsection (i), in addition to any sentence imposed under this article for a felony or misdemeanor, the court may, as a condition of probation or without placing the person on probation, order the person to make restitution to the victim of the crime, the victim's estate, or the family of a victim who is deceased. The court shall base its restitution order upon a consideration of:

(1) property damages of the victim incurred as a result of the crime, based on the actual cost of repair (or replacement if repair is inappropriate);

(2) medical and hospital costs incurred by the victim (before the date of sentencing) as a result of the crime;

(3) the cost of medical laboratory tests to determine if the crime has caused the victim to contract a disease or other medical condition;

(4) earnings lost by the victim (before the date of sentencing) as a result of the crime including earnings lost while the victim was hospitalized or participating in the investigation or trial of the crime; and

(5) funeral, burial, or cremation costs incurred by the family or estate of a homicide victim as a result of the crime.

(b) A restitution order under subsection (a) or (i) is a judgment lien that:

(1) attaches to the property of the person subject to the order;

(2) may be perfected;

(3) may be enforced to satisfy any payment that is delinquent under the restitution order by the person in whose favor the order is issued or the person's assignee; and

(4) expires;

in the same manner as a judgment lien created in a civil proceeding.

(c) When a restitution order is issued under subsection (a), the issuing court may order the person to pay the restitution, or part of the restitution, directly to:

(1) the victim services division of the Indiana criminal justice institute in an amount not exceeding:

~~(1)~~ **(A)** the amount of the award, if any, paid to the victim under IC 5-2-6.1; and

~~(2)~~ **(B)** the cost of the reimbursements, if any, for emergency services provided to the victim under IC 16-10-1.5 (before its repeal) or IC 16-21-8; **or**

(2) a probation department that shall forward restitution or part of restitution to:

(A) a victim of a crime;

(B) a victim's estate; or

(C) the family of a victim who is deceased.

The victim services division of the Indiana criminal justice institute shall deposit the restitution ~~received~~ **it receives** under this subsection in the violent crime victims compensation fund established by IC 5-2-6.1-40.

(d) When a restitution order is issued under subsection (a) or (i), the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. The restitution order must include the following information:

(1) The name and address of the person that is to receive the restitution.

(2) The amount of restitution the person is to receive.

Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-17-2-3. The clerk shall also notify the department of insurance of an order of restitution under subsection (i).

(e) An order of restitution under subsection (a) or (i) does not bar a civil action for:

(1) damages that the court did not require the person to pay to the victim under the restitution order but arise from an injury or property damage that is the basis of restitution ordered by the court; and

(2) other damages suffered by the victim.

(f) Regardless of whether restitution is required under subsection (a) as a condition of probation or other sentence, the restitution order is not discharged by the completion of any probationary period or other sentence imposed for a felony or misdemeanor.

(g) A restitution order under subsection (a) or (i) is not discharged by the liquidation of a person's estate by a receiver under IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, IC 34-48-6, IC 34-1-12, or IC 34-2-7 before their repeal).

(h) The attorney general may pursue restitution ordered by the court under subsections (a) and (c) on behalf of the victim services division of the Indiana criminal justice institute established under IC 5-2-6-8.

(i) The court may order the person convicted of an offense under IC 35-43-9 to make restitution to the victim of the crime. The court shall base its restitution order upon a consideration of the amount of money that the convicted person converted, misappropriated, or received, or for which the convicted person conspired. The restitution order issued for a violation of IC 35-43-9 must comply with subsections (b), (d), (e), and (g), and is not discharged by the completion of any probationary period or other sentence imposed for a violation of IC 35-43-9.".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1437 as reprinted February 25, 2004.)

CRAWFORD	LONG
FOLEY	HOWARD
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 38

The Speaker handed down House Concurrent Resolution 38, authored by Representative Crawford:

A CONCURRENT RESOLUTION urging diversity and inclusion in the American private enterprise system.

Whereas, The Indiana General Assembly finds and declares that the essence of the American economic system of private enterprise is free competition;

Whereas, Only through full and free competition can free markets, reasonable and just prices, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured;

Whereas, The preservation and expansion of that competition is basic to the economic well-being of Indiana and that well-being cannot be realized unless the actual and potential capacity of minority, small and women business enterprises is encouraged and developed;

Whereas, It is the declared policy of the state to aid the interests of minority, small, and women business enterprises in order to preserve reasonable and just prices and a free competitive enterprise, to ensure that a fair proportion of the total purchases and contracts or subcontracts for commodities, supplies, technology, property, and services for regulated utilities are award to minority, small and women business enterprises, and to maintain and strengthen the overall economy of Indiana;

Whereas, The Indiana General Assembly finds all of the following: The opportunity for full participation in our free enterprise system by minority, small and woman business enterprises is essential if Indiana is to attain social and economic equality for those businesses and improve the functioning of Indiana's economy;

Whereas, Public agencies that have established short and long range minority, small and woman business enterprise goals are awarding at least five percent (5%) of the agencies' contracts to these business enterprises;

Whereas, Minority, small and woman business enterprises have traditionally received less than a proportionate share of regulated public utility procurement contracts;

Whereas, It is in the interest of the state to expeditiously improve the economically disadvantaged position of minority, small and woman business enterprises;

Whereas, The position of these businesses can be improved by providing long range substantial goals for procurement by regulated public utilities of technology, equipment, supplies, services, materials, and construction work from women, minority, and small businesses; and

Whereas, That procurement also benefits the regulated public utilities and consumers of Indiana by encouraging the expansion of the number of suppliers for procurement, thereby encouraging competition among the suppliers and promoting economic efficiency in the process: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:

SECTION 1. That the Indiana General Assembly:

(1) Encourage greater economic opportunity for minority, small and woman business enterprises.

(2) Promote competition among regulated public utility suppliers in order to enhance economic efficiency in the procurement of electrical, gas, water and telephone corporation contracts and contracts of their commission regulated subsidiaries and affiliates.

(3) Clarify and expand the program for the procurement by regulated public utilities of technology, equipment, supplies, services, materials, and construct work from minority, small and woman business enterprises.

SECTION 2. That in accordance with the National Association of Utility Regulatory Commissioners, to encourage and enhance greater participation for under utilized disadvantaged businesses.

SECTION 3. That the Indiana Department of Minority Business shall establish guidelines for all regulated electrical, gas, water, and telephone corporations and their subsidiaries and affiliates to be used in establishing programs that promote the procurement of minority, small and woman business.

SECTION 4. That each electrical, gas, water, and telephone corporation shall furnish an annual report to the department regarding the implementation of programs established under this chapter.

SECTION 5. That the department shall annually designate the form for the report and the time that the report must be submitted.

SECTION 6. That the department shall provide a report to the Indiana General Assembly not later than November 1 of each year on the progress of activities undertaken by each regulated electrical, gas, water, and telephone corporation under this chapter in the implementation of minority, small and woman business enterprise development programs. As part of the report, the department shall recommend a program for carrying out the policy declared in this chapter together with recommendations for legislation that the department considers necessary or desirable to further that policy.

SECTION 7. The department shall by rule or order adopt criteria for verifying and determining the eligibility of minority, small and woman business enterprises for procurement contracts.

SECTION 8. That the department shall develop an out reach program to inform and recruit minority, small and woman business enterprises to apply for procurement contracts.

SECTION 9. That each regulated electrical, gas, water, and telephone corporation and its subsidiaries and affiliates shall implement an outreach program developed by the department.

SECTION 10. That in order to facilitate the participation of minority owned businesses, small owned businesses, and woman businesses in contract procurement, a corporation may consider the following measures to include those businesses in all phases of contracting:

(1) Timely or progressive payments to those businesses.

(2) An amendment of the performance bond requirements when past performance within a specified area of business justifies that consideration.

(3) The provision of assistance to those businesses by securing contract payments to those businesses with letters of credit, negotiable securities, or other financing arrangements or measures.

Representative Crawford reported to the House that he had amended the resolution, based on the discussion of the previous day. [*Journal Clerk's Note: the corrected language is printed above*.]

The resolution was read a third time. The Speaker ordered the roll of the House to be called. Roll Call 256: yeas 71, nays 17. The resolution was adopted. The Clerk was directed to inform the Senate of the passage of the resolution. Senate sponsors: Senators Dillon, Howard, Rogers, Simpson, and Breaux.

House Resolution 74

Representative V. Smith introduced House Resolution 74:

A HOUSE RESOLUTION honoring Dr. Maurice C. Daniels for his accomplishments in the areas of civil and human rights and social justice.

Whereas, Dr. Maurice C. Daniels is the director of the Master of Social Work Program at the University of Georgia and the director of the Foot Soldier for Justice Project, a project that chronicles the history of the civil rights movement in Georgia, focusing on its unsung heroes;

Whereas, Dr. Maurice Daniels has long been known for his personal and professional commitment to civil rights issues and history;

Whereas, Dr. Maurice Daniels is the senior researcher and executive producer of two award-winning public television documentaries that record the story of Horace T. Ward, the history of the desegregation of the University of Georgia, and the NAACP's success in challenging segregation in higher education;

Whereas, Dr. Maurice Daniels is active in civil rights and social reform organizations like the NAACP, Habitat for Humanity, and the National Association of Black Social Workers;

Whereas, Dr. Maurice Daniels will be returning to Indiana University Bloomington on April 29, 2004, for a lecture to commemorate the 50th anniversary of the Brown vs. Board of Education landmark decision;

Whereas, Dr. Maurice Daniels' presentation will describe the research process he used to create and develop the civil rights documentary films "Foot Soldier for Equal Justice, Parts I and II";

Whereas, During his lecture, Dr. Maurice Daniels will describe the formative role of the NAACP and the perseverance of unsung foot soldiers in the struggle for civil rights;

Whereas, Dr. Maurice Daniels will also discuss the importance of documenting and presenting the role of the unsung foot soldiers in the battle for social justice; and

Whereas, Dr. Maurice Daniels has dedicated his life to creating an atmosphere conducive to promoting civil rights and social reform: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Indiana House of Representatives honors Dr. Maurice C. Daniels for his dedication to civil rights issues and his service to higher education.

SECTION 2. That the Principal Clerk of the House of Representatives shall transmit copies of this resolution to Dr. Maurice C. Daniels and to Ghangis D. Carter, Director of Recruitment and Retention, Indiana University Bloomington, School of Education.

The resolution was read a first time and adopted by voice vote.

House Resolution 75

Representative Crooks introduced House Resolution 75:

A HOUSE RESOLUTION urging the establishment of an interim study committee on antique license plates.

Whereas, People with vintage automobiles have a desire to display vintage license plates on their vehicles;

Whereas, The state of Indiana must determine the most efficient way to accomplish this: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the legislative council is urged to establish a committee to study antique license plates.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and shall issue a final report when directed to do so by the council.

The resolution was read a first time and adopted by voice vote.

The House recessed until the fall of the gavel.

RECESS

The House reconvened at 4:35 p.m. with the Speaker in the Chair.

Representatives Ayres, and Becker were excused. Representative Cherry was excused for the rest of the day.

MESSAGE FROM THE SENATE

Mr. Speaker: I hereby transmit Senate Enrolled Act 363 for signature.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed House Concurrent Resolutions 40 and 44 and the same are herewith returned to the House.

MARY C. MENDEL
Principal Secretary of the Senate

MESSAGE FROM THE SENATE

Mr. Speaker: I am directed by the Senate to inform the House that the Senate has passed Senate Concurrent Resolutions 36 and 44 and the same are herewith transmitted to the House for further action.

MARY C. MENDEL
Principal Secretary of the Senate

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1203–1; filed March 3, 2004, at 3:55 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1203 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 1. IC 14-25-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) The general assembly finds that a diversion of water out of the Great Lakes will impair or destroy the Great Lakes. The general assembly further finds that the prohibition of a diversion of water from the Great Lakes is consistent with the mandate of the Preamble to and Article 14, Section 1 of the Constitution of the State of Indiana, the United States Constitution, and the federal legislation according to which Indiana was granted statehood.

(b) Water may not be diverted from that part of the Great Lakes drainage basin within Indiana ~~for use in a state outside the basin,~~ unless the diversion is approved by the governor of each Great Lakes state **under 42 U.S.C. 1962d-20 (Water Resources Development Act).**

(c) The commission shall adopt rules necessary to implement this section.

SECTION 2. IC 14-25.5-4-6, AS ADDED BY P.L.145-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. **Except as provided in IC 14-26-7-8, IC 14-27-6-52, IC 14-29-1-3, IC 14-29-7-25, and IC 14-29-8-5,** a person who knowingly violates **an article enforced under** this article commits a Class B infraction. Each day a violation occurs is a separate infraction.

SECTION 3. IC 14-26-2-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. ~~(a)~~ The department may seek ~~and a court having jurisdiction may grant injunctive~~ relief **under IC 14-25.5-4** for the violation of this chapter. ~~The plaintiff in such a cause is not required to give bond, and after the filing of the action and the service of notice all matters involved in the action shall be held in abeyance until the action is tried and determined.~~

~~(b) If a defendant continues to violate this chapter after the service of notice of the action and before trial, the plaintiff is entitled, upon a verified showing of the acts on the part of the defendant, to a temporary restraining order without notice. The temporary restraining order is effective until the cause has been tried and determined.~~

SECTION 4. IC 14-26-2-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. The department may bring an action ~~in any court having jurisdiction~~ **under IC 14-25.5-4** for damages caused by a person who violates this chapter.

SECTION 5. IC 14-26-2-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 21. A person who **knowingly** violates this chapter commits a ~~Class~~ ~~C~~ **Class B** infraction.

SECTION 6. IC 14-26-2-22, AS AMENDED BY P.L.24-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 22. ~~(a)~~ In addition to other penalties prescribed by this chapter or IC 13-2-11.1 (before its repeal), the director may impose a civil penalty under ~~IC 4-21.5, not to exceed one thousand dollars ($1,000), on a person who violates any of the following:~~

~~(1) Section 6, 7, 8, 9, 10, 11, 12, 13, 18, or 23 of this chapter.~~

~~(2) A rule relating to section 6, 7, 8, 9, 10, 11, 12, 13, 18, or 23 of this chapter.~~

~~(3) A permit under this chapter.~~

~~(b) Each day a violation continues after a civil penalty is imposed under subsection (a) constitutes a separate violation.~~

~~(c) Civil penalties imposed under this section shall be deposited in the state general fund.~~ **IC 14-25.5-4.**

SECTION 7. IC 14-26-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 17. A person who **knowingly** violates section 3 of this chapter commits a Class B infraction.

SECTION 8. IC 14-26-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. A person who **knowingly** lowers the water level of a lake more than twelve (12) inches below the high water mark established by the dam or other artificial device creating the lake commits a ~~Class~~ ~~C~~ **Class B** infraction.

SECTION 9. IC 14-27-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. A person who **knowingly** rides or drives upon or over a levee constructed under law, except for the purpose of:

(1) passing over the levee:
(A) at a public or private crossing; or
(B) upon a part of a public highway; or
(2) inspection or repair;

commits a ~~Class~~ ~~C~~ **Class B** infraction.

SECTION 10. IC 14-27-7-5, AS AMENDED BY P.L.148-2002, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. ~~(a)~~ If the department finds that a dike, floodwall, levee, or appurtenance is:

(1) not sufficiently strong;
(2) not maintained in a good and sufficient state of repair or operating condition; or
(3) unsafe and dangerous to life or property;

the department shall issue a notice of violation to the owner of the dike, floodwall, levee, or appurtenance ~~to make or cause to be made, at the owner's expense, the maintenance, alteration, repair, reconstruction, change in construction or location, or removal that the department considers reasonable and necessary.~~

~~(b) The department shall limit in the notice the time for compliance with the notice based on the seriousness of the circumstances involving the structure.~~

~~(c) The owner shall comply with the notice.~~ **under IC 14-25.5-2.**

SECTION 11. IC 14-27-7-7, AS AMENDED BY P.L.148-2002, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. An owner who **knowingly** fails to effect the maintenance, alteration, repair, reconstruction, change in construction or location, or removal within the time limit set forth in the notice of violation of the department under:

(1) section 5 of this chapter; or
(2) IC 13-2-20-4 (before its repeal);

commits a Class B infraction. Every day of failure constitutes a separate infraction.

SECTION 12. IC 14-27-7.5-7, AS ADDED BY P.L.148-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. **(a)** The owner of a structure shall maintain and keep the structure in the state of repair and operating condition required by the following:

(1) The exercise of prudence.
(2) Due regard for life and property.
(3) The application of sound and accepted technical principles.

(b) The owner of a structure shall notify the department in writing of the sale or other transfer of ownership of the structure. The notice must include the name and address of the new owner of the structure.

SECTION 13. IC 14-27-7.5-11, AS ADDED BY P.L.148-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. ~~(a)~~ If the department finds that a structure is:

(1) not sufficiently strong;
(2) not maintained in a good and sufficient state of repair or operating condition;
(3) not designed to remain safe during infrequent loading events; or
(4) unsafe and dangerous to life and property;

the department may issue a notice of violation ~~by letter to the owner of the structure. The notice may require the owner of the structure to make or cause to be made, at the owner's expense, the maintenance, alteration, repair, reconstruction, change in construction or location, or removal that the department considers reasonable and necessary.~~

~~(b) The department shall limit in the notice the time for compliance with the notice based on the seriousness of the circumstances involving the structure.~~

~~(c) The owner shall comply with the notice.~~ **under IC 14-25.5-2.**

SECTION 14. IC 14-27-7.5-13, AS ADDED BY P.L.148-2002, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. An owner who **knowingly** fails to effect the maintenance, alteration, repair, reconstruction, change in construction or location, or removal within the time limit set forth in the notice of violation of the department under:

(1) section 11 of this chapter; or
(2) IC 13-2-20-4 (before its repeal);

commits a Class B infraction. Every day of failure constitutes a separate infraction.

SECTION 15. IC 14-27-7.5-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16. (a) A property owner, the owner's representative, or an individual who resides downstream from a structure:**

(1) over which the department does not have jurisdiction under this chapter; and
(2) that the property owner, the owner's representative, or the individual believes would cause a loss of life or damage to the person's home, industrial or commercial building, public utility, major highway, or railroad if the structure fails;

may request in writing that the department declare the structure a high hazard structure.

(b) If the department receives a request under subsection (a), the department shall:

(1) investigate the structure and the area downstream from the structure;
(2) notify the owner of the structure that the structure is being investigated;
(3) review written statements and technical documentation from any interested party; and
(4) after considering the available information, determine whether or not the structure is a high hazard structure.

(c) The department shall issue a written notice of the department's determination under subsection (b) to:

(1) the individual who requested the determination; and
(2) the owner of the structure that is the subject of the request.

(d) Either:

(1) the individual who requested a determination; or
(2) the owner of the structure that is the subject of the request;

may request an administrative review under IC 4-21.5-3-6 within thirty (30) days after receipt of the written determination.

(e) If the department determines that a structure is a high hazard structure under subsection (b), the provisions of this chapter concerning high hazard structures apply to the structure.

SECTION 16. IC 14-28-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) This section does not apply to the reconstruction of a residence located in a boundary river floodway.

(b) A person may not begin the reconstruction of an abode or a residence that:

(1) is located in a floodway; and
(2) is substantially damaged (as defined in 44 CFR 59.1, as in effect on January 1, 1993) by a means other than floodwater;

unless the person has obtained a permit under this section or section 26.5 of this chapter.

(c) A person who desires to reconstruct an abode or a residence described in subsection (b) must file with the director a verified written application for a permit accompanied by a nonrefundable fee of fifty dollars ($50). An application submitted under this section must do the following:

(1) Set forth the material facts concerning the proposed reconstruction.
(2) Include the plans and specifications for the reconstruction.

(d) The director may issue a permit to an applicant under this section only if the applicant has clearly proven all of the following:

(1) The abode or residence will be reconstructed:
(A) in the area of the original foundation and in substantially the same configuration as the former abode or residence; or
(B) in a location that is, as determined by the director, safer than the location of the original foundation.
(2) The lowest floor elevation of the abode or residence as reconstructed, including the basement, will be at or above the one hundred (100) year flood elevation.
(3) The abode or residence will be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
(4) The abode or residence will be reconstructed with materials resistant to flood damage.
(5) The abode or residence will be reconstructed by methods and practices that minimize flood damages.
(6) The abode or residence will be reconstructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and located to prevent water from entering or accumulating within the components during conditions of flooding.
(7) The abode or residence, as reconstructed, will comply with the minimum requirements for floodplain management set forth

in 44 CFR Part 60, as in effect on January 1, 1993.

(e) When granting a permit under this section, the director may establish and incorporate into the permit certain conditions and restrictions that the director considers necessary for the purposes of this chapter.

(f) A permit issued by the director under this section is void if the reconstruction authorized by the permit is not commenced within two (2) years after the permit is issued.

(g) The director shall send a copy of each permit issued under this section to each river basin commission organized under:

(1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

(2) IC 14-30-1 or IC 36-7-6 (before its repeal);

that is affected by the permit.

(h) The person to whom a permit is issued under this section shall post and maintain the permit at the site of the reconstruction authorized by the permit.

(i) A person who **knowingly:**

(1) begins the reconstruction of an abode or a residence in violation of subsection (b);

(2) violates a condition or restriction of a permit issued under this section; or

(3) fails to post and maintain a permit at a reconstruction site in violation of subsection (h);

commits a ~~Class C~~ **Class B** infraction. Each day that the person is in violation of subsection (b), the permit, or subsection (h) constitutes a separate infraction.

SECTION 17. IC 14-28-1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) A person who desires to reconstruct an abode or a residence that:

(1) is located in a floodway; and

(2) is not substantially damaged (as defined in 44 CFR 59.1, as in effect on January 1, 1997) by a means other than floodwater;

is not required to obtain a permit from the department for the reconstruction of the abode or residence if the reconstruction will meet the requirements set forth in 44 CFR Part 60, as in effect on January 1, 1997.

(b) A person who **knowingly** reconstructs an abode or a residence described in subsection (a) in a way that does not comply with the requirements referred to in subsection (a) commits a ~~Class C~~ **Class B** infraction.

SECTION 18. IC 14-28-1-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 32. (a) A person who **knowingly** violates section 20(2), 20(3), or 29 of this chapter commits a Class B infraction.

(b) Each day of continuing violation after conviction of the offense constitutes a separate offense.

SECTION 19. IC 14-28-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A person who **knowingly** fails to:

(1) comply with the requirements of section 20(1) of this chapter; or

(2) obtain a permit under section 22 of this chapter;

commits a ~~Class C~~ **Class B** infraction.

(b) Each day a person violates section 20(1) or 22 of this chapter constitutes a separate infraction.

SECTION 20. IC 14-28-1-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 34. A person who **knowingly** fails to comply with section 22(i) of this chapter commits a ~~Class D~~ **Class B** infraction. Each day a person violates section 22(i) of this chapter constitutes a separate infraction.

SECTION 21. IC 14-28-1-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 35. The commission may ~~maintain an action to~~ enjoin a violation of this chapter **under IC 14-25.5-2.**

SECTION 22. IC 14-28-1-36 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 36. ~~(a)~~ In addition to other penalties prescribed by this chapter, the director may impose a civil penalty under ~~IC 4-21.5, not to exceed one thousand dollars ($1,000), on a person who violates any of the following:~~

~~(1) Section 20, 22, 27, or 29 of this chapter.~~

~~(2) A rule relating to section 20, 22, 27, or 29 of this chapter.~~

~~(3) A permit issued under this chapter.~~

~~(b) Each day a violation continues after a civil penalty is imposed under subsection (a) constitutes a separate violation.~~

~~(c) Civil penalties imposed under this section shall be deposited in the state general fund.~~ **IC 14-25.5-4.**

SECTION 23. IC 14-29-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A person who **knowingly** takes sand, gravel, stone, or other mineral or substance from or under the bed of the navigable water of Indiana without a permit commits a Class B infraction.

(b) Each day a violation continues constitutes a separate infraction.

SECTION 24. IC 14-29-4-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) A person who **knowingly** violates this chapter commits a ~~Class C~~ **Class B** infraction.

(b) Each day of continuing violation after conviction of the offense constitutes a separate offense.".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1203 as printed February 18, 2004.)

FRENZ	WEATHERWAX
MANGUS	LEWIS
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

RESOLUTIONS ON FIRST READING

House Resolution 76

Representatives Foley and C. Brown introduced House Resolution 76:

A HOUSE RESOLUTION to urge the Health Finance Commission to study the viability of maintaining county-owned or county-operated hospitals.

Whereas, Senate Bill 359 requires the health finance commission during the 2004 interim to study issues concerning requiring a certificate of need or establishing a moratorium on health care facilities in Indiana; and

Whereas, A need exists to study the viability of maintaining county-owned or county operated hospitals: Therefore,

Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

SECTION 1. That the Legislative Council is urged to encourage the health finance commission to study the viability of maintaining county-owned or county operated hospitals.

SECTION 2. That the commission issue a final report when directed to do so by the Council.

The resolution was read a first time and adopted by voice vote.

Senate Concurrent Resolution 36

The Speaker handed down Senate Concurrent Resolution 36, sponsored by Representative Hasler:

A CONCURRENT RESOLUTION urging the establishment of an interim study committee to examine the effect of technological advances in communication on Indiana's Open Door Law and Access to Public Records Act.

Whereas, Communications technology has advanced tremendously beyond what was possible for public agencies when many of the provisions of the Open Door Law and Access to Public Records Act were passed in 1977 and 1983; and

Whereas, Indiana must determine whether changes in the law are needed so that Indiana laws still fulfill the intent of the General Assembly that official action of public agencies be conducted and taken openly in order that the people may be fully informed: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the legislative council is urged to establish a committee to examine the effect of technological advances in communication on Indiana's Open Door Law and Access to Public Records Act.

SECTION 2. That the committee, if established, shall operate under the direction of the legislative council and that the committee shall issue a final report when directed to do so by the council.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

Senate Concurrent Resolution 44

The Speaker handed down Senate Concurrent Resolution 44, sponsored by Representatives Pierce and Welch:

A CONCURRENT RESOLUTION congratulating the Indiana University Alumni Association on its 150th anniversary.

Whereas, The Indiana University Alumni Association will celebrate its 150th anniversary this year;

Whereas, Over the last 150 years countless alumni volunteers, led by 11 association chief executives, have served Indiana University and its alumni;

Whereas, During its century-and-a-half of existence, the Indiana University Alumni Association has launched the IU Foundation, IU Varsity Club, IU Sports Network, and Hoosiers for Higher Education;

Whereas, The Indiana University Alumni Association is one of the nation's largest alumni organizations with more than 450,000 living graduates;

Whereas, The Indiana University Alumni Association strives to connect and engage alumni through programs, services, and communications;

Whereas, The Indiana University Alumni Association works to assist the university, faculty and students in a myriad of ways helping to address financial, cultural, political, and supportive issues; and

Whereas, Ken Beckley currently serves as President and CEO of the Indiana University Alumni Association, the organization's 11th professional leader of the organization since 1915: Therefore,

Be it resolved by the Senate
of the General Assembly of the State of Indiana,
the House of Representatives concurring:

SECTION 1. That the General Assembly hereby congratulates the Indiana University Alumni Association on its 150th anniversary.

SECTION 2. That the Secretary of the Senate transmit a copy of this resolution to Ken Beckley.

The resolution was read a first time and adopted by voice vote. The Clerk was directed to inform the Senate of the passage of the resolution.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed House Bill 1062 because it conflicts with SEA 263-2004 without properly recognizing the existence of SEA 263-2004, has had Engrossed House Bill 1062 under consideration and begs leave to report back to the House with the recommendation that Engrossed House Bill 1062 be corrected as follows:

Page 7, line 3, delete "IC 33-19-6.5." and insert "**IC 33-37-6.**".

Page 7, line 8, delete "IC 33-19-6.5." and insert "**IC 33-37-6.**".

Page 7, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 13. IC 33-34-1-6, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. A division of the small claims court must be a full-time division or a part-time division as determined by the individual township boards following ~~the~~ **a** hearing ~~provided for in~~ **conducted under** section 7 of this chapter.

SECTION 14. IC 33-34-1-7, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. ~~In 1975,~~ A hearing ~~was~~ **must be** conducted to obtain evidence, opinions, advice, and suggestions from public officials and the general public ~~on the question of~~ **concerning:**

(1) whether a small claims court division should be established **or abolished** in the township, ~~in each~~ **if the** township ~~with~~ **has** a population of less than fifteen thousand (15,000) persons;

(2) whether the **small claims court** division should be full time or part time;

(3) the location of the **small claims court** division courtroom and offices; and

(4) other relevant matters.

SECTION 15. IC 33-34-1-9, AS ADDED BY SEA 263-2004, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. Not more than two (2) weeks ~~following~~ **after** a hearing ~~held~~ **is conducted** under section 7 of this chapter, the township board shall, after considering the evidence, opinions, advice, and suggestions presented at the hearing, enter an order ~~as to:~~ **concerning:**

(1) whether a small claims court division shall be established **or abolished** in the township if the township has a population of less than fifteen thousand (15,000) persons;

(2) whether the **small claims court** division, if any, shall function full time or part time;

(3) the location of the **small claims court** division courtroom and offices under IC 33-34-6-1; and

(4) other relevant matters.

SECTION 16. IC 33-37-6-2, AS ADDED BY SEA 263-2004, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** A payment made under this chapter does not finally discharge the person's liability, and the person has not paid the liability until the clerk receives payment or credit from the institution responsible for making the payment or credit.

(b) The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk ~~*may or shall*~~ **shall** collect a credit card service fee **equal to the vendor transaction charge or discount fee** from the person using the bank or credit card. The fee collected under this section is a permitted additional charge to the money the clerk is required to collect under section 1(1) of this chapter.

SECTION 17. IC 33-38-14-8, AS ADDED BY SEA 263-2004, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. **Subject to section 9 of this chapter,** the commission is the commission on judicial qualifications for judges of ~~superior and probate~~ **trial** courts. ~~in the counties described in section 9 of this chapter.~~ The members of the commission on judicial qualifications for the court of appeals and the supreme court are the members of the commission on judicial qualifications for judges of the ~~superior and probate~~ **trial** courts.

SECTION 18. IC 33-38-14-9, AS ADDED BY SEA 263-2004, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The commission shall exercise disciplinary jurisdiction over judges **of trial courts.**

(b) In a county in which a commission on judicial qualifications operated by virtue of law before July 26, 1973, the county commission on judicial qualifications ceases to exercise disciplinary jurisdiction over the county courts and the commission shall exercise disciplinary jurisdiction. However, if the law creating a county commission on judicial qualifications in a county before July 26, 1973, precluded judges subject to its disciplinary jurisdiction from participating in political activities because the judges are selected by a merit system, the judges are precluded from participating in political activities.

(c) The operation and function of a judicial nominating commission operating in a county by virtue of law before July 26, 1973, is not affected by this chapter.

SECTION 19. IC 33-39-6-1, AS ADDED BY SEA 263-2004, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) Prosecuting attorneys and deputy prosecuting attorneys are entitled to receive the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to a prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a prosecuting attorney or a deputy prosecuting attorney that exceeds the amount that the state is to pay.

(c) A deputy prosecuting attorney who knowingly divides compensation with the prosecuting attorney or any other officer or person in connection with employment commits a Class B misdemeanor.

(d) A prosecuting attorney or any other officer or person who **knowingly** accepts any division of compensation described in subsection (c) commits a Class B misdemeanor.

(e) The attorney general shall call at least one (1) and not more than two (2) conferences of the prosecuting attorneys, each year, to consider, discuss, and develop coordinated plans for the enforcement of the laws of Indiana. The date or dates upon which the conferences are held shall be fixed by the attorney general. The expenses necessarily incurred by a prosecuting attorney in attending a conference, including the actual expense of transportation to and from the place where the conference is held, together with meals and lodging, shall be paid from the general fund of the county upon the presentation of an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there is more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of this subsection shall be paid from the general fund of the respective counties constituting the circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

SECTION 20. IC 33-40-8-5, AS ADDED BY SEA 263-2004, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. **(a) Subject to subsection (b), if** an indigent person: ~~desiring~~

(1) desires to appeal to the supreme court or the court of appeals the decision of a ~~circuit court or criminal~~ **trial** court in **a** criminal ~~cases,~~ **case;** and

(2) does not ~~having~~ **have** sufficient means to procure the ~~longhand~~ **typed or printed** manuscript or transcript of the evidence taken ~~in shorthand,~~ by the ~~order or permission of any~~ court **reporter;**

the court shall direct the ~~shorthand~~ **court** reporter to transcribe the ~~shorthand~~ notes of evidence into ~~longhand,~~ **a typed or printed manuscript or transcript** as soon as practicable and deliver the ~~longhand~~ manuscript or transcript to the indigent person. ~~However,~~

(b) Notwithstanding subsection (a):

(1) the court must be satisfied that the indigent person lacks sufficient means to pay the **court** reporter for making the ~~longhand~~ manuscript or transcript of evidence; and

(2) the **court** reporter may charge the compensation allowed by law in cases for making and furnishing a ~~longhand~~ manuscript ~~which service of~~ **or transcript.** The reporter shall be paid by the court from the proper county treasury.

SECTION 21. IC 33-41-1-1, AS ADDED BY SEA 263-2004, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) To facilitate and expedite the trial of causes, the judge of each circuit, ~~criminal,~~ superior, probate, and juvenile court of each county shall appoint an official reporter.

(b) The official reporter shall, when required by the recorder's appointing judge, do the following:

(1) Be promptly present in the appointing judge's court.

(2) Record the oral evidence given in all causes **by any approved method,** including both questions and answers.

(3) Note all rulings of the judge concerning the admission and rejection of evidence and the objections and exceptions to the admission and rejection of evidence.

(4) Write out the instructions of the court in jury trials.

(c) In counties in which the circuit or probate court sits as a juvenile court, the official reporter of the circuit court or probate court, as the case may be:

(1) shall report the proceedings of the juvenile court as part of the reporter's duties as reporter of the circuit or probate court; and

(2) except as provided in subsection (d), may not receive additional compensation for the reporter's services for reporting the proceedings of the juvenile court.

(d) In counties in which a circuit court has juvenile jurisdiction and where there is a juvenile referee and the circuit judge is the judge of the juvenile court, the salary of the juvenile court reporter is one hundred twenty-five dollars ($125) per month in addition to any compensation the reporter receives as reporter of the circuit court.

(e) The official reporters of juvenile courts shall:

(1) be paid the same amount for their services and in the same manner;

(2) have the same duties; and

(3) be subject to the same restrictions;

as is provided for by law for the official reporters of the other courts. However, in a county having a population of more than two hundred fifty thousand (250,000), the judge of the juvenile court may appoint court reporters as necessary for compliance with the law in regard to the reporting of cases and facilitating and expediting the trial of causes, each of whom is entitled to receive a salary of at least three hundred dollars ($300) per month.

SECTION 22. IC 33-41-1-5, AS ADDED BY SEA 263-2004, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If requested to do so, an official reporter shall furnish to either party in a cause a transcript of all or any part of the proceedings required by the reporter to be taken or noted, including all documentary evidence.

(b) An official reporter shall furnish ~~the~~ **a typewritten or printed** transcript described in subsection (a) ~~written in a plain legible longhand or typewriting~~ as soon after being requested to do so as practicable.

(c) The reporter shall certify that the transcript contains all the evidence given in the cause.

(d) The reporter may require payment for a transcript, or that the payment be satisfactorily secured, before the reporter proceeds to do the required work.".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1062 as printed February 20, 2004.)

PELATH, Chair
WHETSTONE, R.M.M.
FOLEY, Author

Report adopted.

MOTIONS TO CONCUR IN SENATE AMENDMENTS

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1448 and that the House now concur in the Senate amendments to said bill.

STILWELL

Roll Call 257: yeas 83, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1301.

BOTTORFF

Roll Call 258: yeas 84, nays 2. Motion prevailed.

Representatives Ayres and Becker, who had been excused, were present.

HOUSE MOTION

Mr. Speaker: I move that the House concur in the Senate amendments to Engrossed House Bill 1277.

BOTTORFF

Roll Call 259: yeas 91, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1244 and that the House now concur in the Senate amendments to said bill.

MANGUS

Roll Call 260: yeas 92, nays 0. Motion prevailed.

HOUSE MOTION

Mr. Speaker: I move that the House reconsider its actions whereby it dissented from the Senate amendments to Engrossed House Bill 1098 and that the House now concur in the Senate amendments to said bill.

WELCH

Roll Call 261: yeas 68, nays 26. Motion prevailed.

CONFEREES AND ADVISORS APPOINTED

The Speaker announced the following changes in appointment of Representatives as conferees and advisors:

EHB 1320 Conferee: Scholer replacing Frizzell
Advisor: Scholer removed

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT
EHB 1251–1; filed March 3, 2004, at 4:39 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1251\ respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-28-11-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4. A health facility that possesses unused medication that meets the requirements of IC 25-26-13-25(i)(1) through IC 25-26-13-25(i)(6):**

(1) shall return medication that belonged to a Medicaid recipient; and

(2) may return other unused medication;

to the pharmacy that dispensed the medication.

SECTION 2. IC 25-26-13-25, AS AMENDED BY P.L.182-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 25. (a) All original prescriptions, whether in written or electronic format, shall be numbered and maintained in numerical and chronological order, or in a manner approved by the board and accessible for at least two (2) years in the pharmacy. A prescription transmitted from a practitioner by means of communication other than writing must immediately be reduced to writing or recorded in an electronic format by the pharmacist. The files shall be open for inspection to any member of the board or its duly authorized agent or representative.

(b) Except as provided in subsection (c), ~~before the expiration of subsection (c) on June 30, 2003,~~ a prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may not be refilled without written or oral authorization of a licensed practitioner.

(c) A prescription for any drug, the label of which bears either the legend, "Caution: Federal law prohibits dispensing without prescription" or "Rx Only", may be refilled by a pharmacist one (1) time without the written or oral authorization of a licensed practitioner if all of the following conditions are met:

(1) The pharmacist has made every reasonable effort to contact the original prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(2) The pharmacist believes that, under the circumstances, failure to provide a refill would be seriously detrimental to the patient's health.

(3) The original prescription authorized a refill but a refill would otherwise be invalid for either of the following reasons:

(A) All of the authorized refills have been dispensed.

(B) The prescription has expired under subsection (f).

(4) The prescription for which the patient requests the refill was:

(A) originally filled at the pharmacy where the request for a refill is received and the prescription has not been transferred for refills to another pharmacy at any time; or

(B) filled at or transferred to another location of the same pharmacy or its affiliate owned by the same parent corporation if the pharmacy filling the prescription has full access to prescription and patient profile information that is simultaneously and continuously updated on the parent corporation's information system.

(5) The drug is prescribed for continuous and uninterrupted use and the pharmacist determines that the drug is being taken properly in accordance with IC 25-26-16.

(6) The pharmacist shall document the following information regarding the refill:

(A) The information required for any refill dispensed under subsection (d).

(B) The dates and times that the pharmacist attempted to contact the prescribing practitioner or the practitioner's designee for consultation and authorization of the prescription refill.

(C) The fact that the pharmacist dispensed the refill without the authorization of a licensed practitioner.

(7) The pharmacist notifies the original prescribing practitioner of the refill and the reason for the refill by the practitioner's next business day after the refill has been made by the pharmacist.

(8) Any pharmacist initiated refill under this subsection may not be for more than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day. However, a pharmacist may dispense a drug in an amount greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day if:

(A) the drug is packaged in a form that requires the pharmacist to dispense the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day; or

(B) the pharmacist documents in the patient's record the amount of the drug dispensed and a compelling reason for dispensing the drug in a quantity greater than the minimum amount necessary to supply the patient through the prescribing practitioner's next business day.

(9) Not more than one (1) pharmacist initiated refill is dispensed under this subsection for a single prescription.

(10) The drug prescribed is not a controlled substance.

A pharmacist may not refill a prescription under this subsection if the practitioner has designated on the prescription form the words "No Emergency Refill".

(d) When refilling a prescription, the refill record shall include:

(1) the date of the refill;

(2) the quantity dispensed if other than the original quantity; and

(3) the dispenser's identity on:

(A) the original prescription form; or

(B) another board approved, uniformly maintained, readily retrievable record.

(e) The original prescription form or the other board approved record described in subsection (d) must indicate by the number of the original prescription the following information:

(1) The name and dosage form of the drug.

(2) The date of each refill.

(3) The quantity dispensed.

(4) The identity of the pharmacist who dispensed the refill.

(5) The total number of refills for that prescription.

(f) A prescription is valid for not more than one (1) year after the original date of issue.

(g) A pharmacist may not knowingly dispense a prescription after the demise of the practitioner, unless in the pharmacist's professional

judgment it is in the best interest of the patient's health.

(h) A pharmacist may not knowingly dispense a prescription after the demise of the patient.

(i) A pharmacist or a pharmacy shall not resell, reuse, or redistribute a medication that is returned to the pharmacy after being dispensed unless the medication:

(1) was dispensed to a patient:

(A) residing in an institutional facility (as defined in ~~856 IAC 1-28-1(a));~~ **856 IAC 1-28.1-1(6)); or**

(B) in a hospice program under IC 16-25;

(2) was properly stored and securely maintained according to sound pharmacy practices;

(3) is returned unopened and:

(A) was dispensed in the manufacturer's original:

(i) bulk, multiple dose container with an unbroken tamper resistant seal; or

(ii) unit dose package; or

(B) was packaged by the dispensing pharmacy in a:

(i) multiple dose blister container; or

(ii) unit dose package;

(4) was dispensed by the same pharmacy as the pharmacy accepting the return;

(5) is not expired; and

(6) is not a controlled substance (as defined in IC 35-48-1-9), unless the pharmacy holds a Type II permit (as described in ~~IC 25-26-13-17).~~ **section 17 of this chapter).**

(j) A pharmacist may use the pharmacist's professional judgment as to whether to accept medication for return under ~~subsection (i).~~ **this section.**

(k) A pharmacist who violates subsection (c) commits a Class A infraction.

SECTION 3. IC 25-26-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 16.5. Drug Regimens in Health Facilities

Sec. 1. This chapter applies to a health facility licensed under IC 16-28.

Sec. 2. (a) As used in this chapter, "attending physician" means a physician licensed under IC 25-22.5 who is responsible for the ongoing health care of an individual who resides in a health facility.

(b) The medical director of a health facility to which the individual is admitted may not serve as the individual's attending physician unless the medical director meets the requirements set forth in subsection (a).

Sec. 3. As used in this chapter, "protocol" means a policy, procedure, or protocol of a health facility concerning the adjustment of a patient's drug regimen as allowed under this chapter by a pharmacist licensed under this article.

Sec. 4. As used in this chapter, "therapeutic alternative" means a drug product that:

(1) has a different chemical structure from;

(2) is of the same pharmacological or therapeutic class as; and

(3) usually can be expected to have similar therapeutic effects and adverse reaction profiles when administered to patients in therapeutically equivalent doses as;

another drug.

Sec. 5. For purposes of this chapter, a pharmacist adjusts a drug regimen if the pharmacist:

(1) changes the duration of treatment for a current drug therapy;

(2) adjusts a drug's strength, dosage form, frequency of administration, or route of administration;

(3) discontinues the use of a drug; or

(4) adds a drug to the treatment regimen.

Sec. 6. At the time an individual is admitted to a health facility that has adopted a protocol under this chapter, the individual's attending physician shall signify in writing in the form and manner prescribed by the health facility whether the protocol applies in the care and treatment of the individual.

Sec. 7. (a) A pharmacist may adjust the drug therapy regimen of the individual under:

(1) the written authorization of the individual's attending physician under section 6 of this chapter;

(2) the health facility's protocols; and

(3) this chapter.

(b) The pharmacist shall review the appropriate medical records of the individual to determine whether the attending physician has authorized the use of a specific protocol before the pharmacist adjusts the individual's drug therapy regimen.

(c) Notwithstanding subsection (a), if a protocol involves parenteral nutrition of the patient, the pharmacist shall communicate with the attending physician to receive approval to begin the protocol. The pharmacist shall document the authorization of the attending physician to use the protocol immediately in the individual's medical record.

Sec. 8. If a health facility elects to implement, revise, or renew a protocol under this chapter, the health facility shall establish a drug regimen review committee consisting of:

(1) the health facility's medical director;

(2) the health facility's director of nursing; and

(3) a consulting pharmacist licensed under this article;

for the implementation, revision, or renewal of a protocol.

Sec. 9. Except for the addition or deletion of authorized physicians and pharmacists, a modification to a written protocol requires the initiation of a new protocol.

Sec. 10. (a) A protocol of a health facility developed under this chapter must be:

(1) based on clinical considerations; and

(2) reviewed by the health facility's drug regimen committee at least quarterly.

(b) A protocol of a health facility developed under this chapter may not:

(1) prohibit the attending physician from approving only specific parts of a protocol; or

(2) provide for an adjustment to an individual's drug regimen for the sole purpose of achieving a higher reimbursement for the substituted drug therapy than what would have been received for the original drug therapy ordered by the attending physician.

Sec. 11. A protocol developed under this chapter must include the following:

(1) The identification of:

(A) the individual whose drug regimen may be adjusted;

(B) the attending physician who is delegating the authority to adjust an individual's drug regimen; and

(C) the pharmacist who is authorized to adjust the individual's drug regimen.

(2) The attending physician's diagnosis of the individual's:

(A) condition; or

(B) disease state;

whose drug regimen may be adjusted.

(3) A statement regarding:

(A) the types and:

(i) categories; or

(ii) therapeutic classifications;

of medication, including the specific therapeutic alternatives that may be substituted for a drug prescribed by a physician;

(B) the minimum and maximum dosage levels within the types and:

(i) categories; or

(ii) therapeutic classifications;

of medications described in clause (A);

(C) the dosage forms;

(D) the frequency of administration;

(E) the route of administration;

(F) the duration of the administration of the drug regimen and any adjustment to the drug regimen; and

(G) exceptions to the application of the drug regimen or the adjustment to the drug regimen;

for which the pharmacist may adjust the individual's drug regimen.

(4) A requirement that:

(A) the individual's medical records be available to both the individual's attending physician and the pharmacist;

and

(B) the procedures performed by the pharmacist relate to a disease or condition for which the patient has been under the attending physician's medical care.

Sec. 12. A protocol developed under this chapter that is implemented for a Medicaid recipient must comply with any statutes, regulations, and procedures under the state Medicaid program relating to the preferred drug list established under IC 12-15-35-28.

Sec. 13. If a protocol developed under this chapter allows a pharmacist to substitute a therapeutic alternative for the drug prescribed by the individual's attending physician, the attending physician's authorization of the substitution is valid only for the duration of the prescription or drug order.

Sec. 14. This chapter does not allow a pharmacist to substitute a therapeutic alternative for the drug prescribed by the individual's attending physician unless the substitution is authorized by the attending physician under a valid protocol under this chapter.

Sec. 15. The individual's attending physician:

(1) shall review a protocol approved and implemented for a patient of the physician at the physician's next visit to the health facility, and at each subsequent visit of the physician to the health facility; and

(2) may at any time modify or cancel a protocol by entering the modification or cancellation in the individual's medical record.

Sec. 16. (a) Documentation of protocols must be maintained in a current, consistent, and readily retrievable manner.

(b) After making an adjustment to an individual's drug regimen, the pharmacist shall immediately document the adjustment in the patient's medical record.

(c) The pharmacist shall notify the individual's attending physician of an adjustment at least one (1) business day before the adjustment is made.

Sec. 17. (a) This chapter does not modify the requirements of other statutes relating to the confidentiality of medical records.

(b) This chapter does not make any other licensed health care provider or pharmaceutical manufacturer liable for the actions of a pharmacist carried out under this section.

(c) A physician who approves the use of a protocol under this chapter and a pharmacist who adjusts a drug regimen of a patient pursuant to a protocol under this chapter do not violate IC 25-22.5-1-2(d).

Sec. 18. A pharmacist who violates this chapter is subject to discipline under IC 25-1-9.

SECTION 4. IC 25-26-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 20. Regional Drug Repository Program

Sec. 1. The definitions in IC 25-26-13-2 apply throughout this chapter.

Sec. 2. As used in this chapter, "nonprofit health clinic" means any of the following:

(1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(3) A nonprofit health clinic that provides medical care to patients who are indigent, uninsured, or underinsured.

Sec. 3. (a) The board may organize a voluntary regional drug repository program to collect and redistribute drugs to nonprofit health clinics.

(b) The board may enter into a voluntary agreement with any of the following to serve as a regional drug repository:

(1) A pharmacist or pharmacy.

(2) A wholesale drug distributor.

(3) A hospital licensed under IC 16-21.

(4) A health care facility (as defined in IC 16-18-2-161).

(5) A nonprofit health clinic.

(c) A regional drug repository may not receive compensation for participation in the program.

Sec. 4. (a) Except as provided in subsections (b) and (c), unadulterated drugs that meet the requirements set forth in IC 25-26-13-25(i) may be donated without a prescription or drug order to the regional drug repository program by the following:

(1) A pharmacist or pharmacy.

(2) A wholesale drug distributor.

(3) A hospital licensed under IC 16-21.

(4) A health care facility (as defined in IC 16-18-2-161).

(5) A hospice.

(6) A practitioner.

(b) An unadulterated drug that:

(1) was returned under IC 25-26-13-25; and

(2) was prescribed for a Medicaid recipient;

may not be donated under this section unless the Medicaid program has been credited for the product cost of the drug as provided in policies under the Medicaid program.

(c) A controlled drug may not be donated under this section.

Sec. 5. (a) A drug that is given by a regional drug repository to a nonprofit health clinic may not be:

(1) sold; or

(2) given to a patient, except upon a practitioner's prescription or drug order.

(b) An individual who is eligible to participate in:

(1) the state Medicaid program under IC 12-15; or

(2) a program that:

(A) provides a prescription drug benefit; and

(B) is funded in whole or in part by state funds;

is not eligible to receive a drug donated under the voluntary regional drug repository program organized under section 3 of this chapter.

Sec. 6. (a) The following are not subject to liability under IC 34-20-2-1:

(1) A person or entity who donates a drug to a regional drug repository program under this chapter in accordance with rules adopted by the board under section 7 of this chapter.

(2) A non-profit health clinic or practitioner who accepts or dispenses a drug under the regional drug repository program in accordance with rules adopted by the board under section 7 of this chapter.

(3) A regional drug repository that distributes a drug under the program in accordance with rules adopted by the board under section 7 of this chapter.

(b) Except in cases of negligence or willful misconduct by the manufacturer, a drug manufacturer is not subject to liability under IC 34-20-2-1 for a claim arising from a drug that is donated, accepted, or dispensed under this chapter to the user or the consumer.

Sec. 7. The board may adopt rules under IC 4-22-2 to:

(1) establish standards and procedures for accepting, storing, and dispensing drugs donated under this chapter;

(2) establish the types of drugs that may be donated; and

(3) administer this chapter.

SECTION 5. IC 34-30-2-101.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 101.5. IC 25-26-20-6 (Concerning drugs donated to a regional drug repository program).**

SECTION 6. [EFFECTIVE JULY 1, 2004] (a) As used in this SECTION, "office" refers to the office of Medicaid policy and planning established by IC 12-8-6-1.

(b) Before January 1, 2005, the office shall review the process of returning unused medication under IC 25-26-13-25, as amended by this act, and the process of reimbursing the office for unused medication of a Medicaid recipient. The office may consider in the office's review information provided by pharmacies that provide long term care pharmacy services. Beginning December 31, 2004, the office may review the process of returning unused medication when the office determines that a review is necessary.

(c) Before October 1, 2004, the office shall provide any information gathered under subsection (b) to the health finance commission established by IC 2-5-23-3. Before November 1, 2004, the health finance commission shall review the process of returning unused medication under IC 25-26-13-25, including the reimbursement to the office for the unused medication of a Medicaid recipient.

(d) This SECTION expires December 31, 2009.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) The Indiana prescription drug advisory committee is established to:**

(1) study pharmacy benefit programs and proposals, including programs and proposals in other states;

(2) make initial and ongoing recommendations to the governor for programs that address the pharmaceutical costs of low income senior citizens; and

(3) review and approve changes to a prescription drug program that is established or implemented under a Medicaid waiver that uses money from the Indiana prescription drug account established by IC 4-12-8-2.

(b) The committee consists of eleven (11) members appointed by the governor and four (4) legislative members. Members serving on the committee established by P.L.291-2001, SECTION 81, before its expiration on December 31, 2001, continue to serve. The term of each member expires December 31, 2006. The members of the committee appointed by the governor are as follows:

(1) A physician with a specialty in geriatrics.

(2) A pharmacist.

(3) A person with expertise in health plan administration.

(4) A representative of an area agency on aging.

(5) A consumer representative from a senior citizen advocacy organization.

(6) A person with expertise in and knowledge of the federal Medicare program.

(7) A health care economist.

(8) A person representing a pharmaceutical research and manufacturing association.

(9) A township trustee.

(10) Two (2) other members as appointed by the governor. The four (4) legislative members shall serve as nonvoting members. The speaker of the house of representatives and the president pro tempore of the senate shall each appoint two (2) legislative members, who may not be from the same political party, to serve on the committee.

(c) The governor shall designate a member to serve as chairperson. A vacancy with respect to a member shall be filled in the same manner as the original appointment. Each member is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties. The expenses of the committee shall be paid from the Indiana prescription drug account established by IC 4-12-8-2. The office of the secretary of family and social services shall provide staff for the committee. The committee is a public agency for purposes of IC 5-14-1.5 and IC 5-14-3. The committee is a governing body for purposes of IC 5-14-1.5.

(d) The committee shall make program design recommendations to the governor and the office of the secretary of family and social services to coordinate the Indiana prescription drug program administered under IC 12-10-16-3 with the federal Medicare Prescription Drug and Improvement and Modernization Act of 2003, and to ensure that the program does not duplicate benefits provided under the federal law. In making recommendations, the committee shall consider the following:

(1) Eligibility criteria, including any changes in income limits.

(2) Benefit structure, including determining if the program will assume any of a program recipient's premiums or cost sharing requirements required by federal law.

(3) Cost sharing requirements, including whether the program should include a requirement for copayments or premium payments.

(4) Marketing and outreach strategies.

(5) Administrative structure and delivery systems.

(6) Evaluation.

(7) Coordination with existing private or public pharmaceutical assistance programs available to an individual in Indiana.

(e) The recommendations shall address the following:

(1) Cost effectiveness of program design.

(2) Strategies to minimize crowd out of private insurance.

(3) Reasonable balance between maximum eligibility levels and maximum benefit levels.

(4) Feasibility of a health care subsidy program where the amount of the subsidy is based on income.

(5) Advisability of entering into contracts with health insurance companies to administer the program.

(f) The committee shall submit its recommended changes to the governor and the office of the secretary of family and social services before:

(1) July 1, 2004, for program changes related to the Medicare discount program; and

(2) September 1, 2005, for program changes related to the part D Medicare drug benefit.

(g) This SECTION expires December 31, 2006.

SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: P.L.106-2002, SECTION 1; P.L.107-2002, SECTION 35; P.L.224-2003, SECTION 68.

SECTION 9. **An emergency is declared for this act.**

(Reference is to EHB 1251 as printed February 13, 2004.)

C. BROWN	SERVER
BECKER	SIMPSON
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1300–1; filed March 3, 2004, at 4:43 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1300 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 12-26-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) This section does not apply to the commitment of an individual if the individual has previously been committed under IC 12-26-6.

(b) A proceeding for the commitment of an individual who appears to be suffering from a chronic mental illness may be begun by filing with a court having jurisdiction a written petition by any of the following:

(1) A health officer.

(2) A police officer.

(3) A friend of the individual.

(4) A relative of the individual.

(5) The spouse of the individual.

(6) A guardian of the individual.

(7) The superintendent of a facility where the individual is present.

(8) A prosecuting attorney in accordance with IC 35-36-2-4.

(9) A prosecuting attorney or the attorney for a county office if civil commitment proceedings are initiated under IC 31-34-19-3 or IC 31-37-18-3.

(10) A third party that contracts with the division of mental health and addiction to provide competency restoration services to a defendant under IC 35-36-3-3 or IC 35-36-3-4.

SECTION 2. IC 12-26-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) At least annually, and more often if directed by the court, the superintendent of the facility or the attending physician including the superintendent or attending physician of an outpatient therapy program, shall file with the court a review of the individual's care and treatment. The review must contain a statement of the following:

(1) The mental condition of the individual.

(2) Whether the individual is dangerous or gravely disabled.

(3) Whether the individual:

(A) needs to remain in the facility; or

(B) may be cared for under a guardianship.

(b) If the court has entered an order under IC 12-26-12-1, the superintendent or the attending physician shall give notice of the review to the petitioner in the individual's commitment proceeding and other persons that were designated by the court under IC 12-26-12-1 **or as provided in this section.**

(c) If an individual has been committed under IC 35-36-2-4, the superintendent of the facility or the attending physician shall:

(1) file with the court the report described in subsection (a) every six (6) months, or more often if directed by the court; and

(2) notify the court, the petitioner, and any other person or persons designated by the court under this section:

(A) at least ten (10) days before, or as soon as practicable in case of an emergency, when:

(i) the committed individual is allowed outside the facility or the grounds of the facility not under custodial supervision;

(ii) the committed individual is transferred to another facility and the location of that facility; or

(iii) the committed individual is discharged or the individual's commitment is otherwise terminated; and

(B) as soon as practicable if the committed individual escapes.

(d) The court may designate as a person or persons to receive the notices provided in this section a person or persons who suffered harm as the result of a crime for which the committed individual was on trial.

(e) The court may designate as a person or persons to receive the notices provided in this section:

(1) an individual or individuals described in subsection (d); or

(2) a designated representative if the person or persons described in subsection (d) are incompetent, deceased, less than eighteen (18) years of age, or otherwise incapable of receiving or understanding a notice provided for in this section.

(f) A commitment order issued by a court under IC 35-36-2-4 and this article must include the following:

(1) The mailing address, electronic mail address, facsimile number, and telephone number of the following:

(A) The petitioner who filed the petition under IC 35-36-2-4.

(B) Any other person designated by the court.

(2) The notice requirements set forth in this section.

SECTION 3. IC 35-36-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** At the trial of a criminal case in which the defendant intends to interpose the defense of insanity, evidence may be introduced to prove the defendant's sanity or insanity at the time at which the defendant is alleged to have committed the offense charged in the indictment or information.

(b) When notice of an insanity defense is filed, the court shall appoint two (2) or three (3) competent disinterested psychiatrists, psychologists endorsed by the state psychology board as health service providers in psychology, or physicians, at least one (1) of whom must be a psychiatrist, to examine the defendant and to testify at the trial. This testimony shall follow the presentation of the evidence for the prosecution and for the defense, including testimony of any medical experts employed by the state or by the defense.

(c) If a defendant does not adequately communicate, participate, and cooperate with the medical witnesses appointed by the court, after being ordered to do so by the court, the defendant may not present as evidence the testimony of any other medical witness:

(1) with whom the defendant adequately communicated, participated, and cooperated; and

(2) whose opinion is based upon examinations of the defendant;

unless the defendant shows by a preponderance of the evidence that the defendant's failure to communicate, participate, or cooperate with the medical witnesses appointed by the court was caused by the defendant's mental illness.

(d) The medical witnesses appointed by the court may be cross-examined by both the prosecution and the defense, and each side may introduce evidence in rebuttal to the testimony of such a medical witness.

SECTION 4. IC 35-36-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. **(a)** Whenever a defendant is found not responsible by reason of insanity at the time of the crime, the prosecuting attorney shall file a written petition with the court under IC 12-26-6-2(a)(3) or under IC 12-26-7. If a petition is filed under IC 12-26-6-2(a)(3), the court shall hold a commitment hearing under IC 12-26-6. If a petition is filed under IC 12-26-7, the court shall hold a commitment hearing under IC 12-26-7.

(b) The hearing shall be conducted at the earliest opportunity after the finding of not responsible by reason of insanity at the time of the crime, and the defendant shall be detained in custody until the completion of the hearing. The court may take judicial notice of evidence introduced during the trial of the defendant and may call the physicians appointed by the court to testify concerning whether the defendant is currently mentally ill and dangerous or currently mentally ill and gravely disabled, as those terms are defined by IC 12-7-2-96 and ~~IC 12-7-2-130(a)(1).~~ **IC 12-7-2-130(1).** The court may subpoena any other persons with knowledge concerning the issues presented at the hearing.

(c) The defendant has all the rights provided by the provisions of IC 12-26 under which the petition against the defendant was filed. The prosecuting attorney may cross-examine the witnesses and present relevant evidence concerning the issues presented at the hearing.

(d) If a court orders an individual to be committed under IC 12-26-6 or IC 12-26-7 following a verdict of not responsible by reason of insanity at the time of the crime, the superintendent of the facility to which the individual is committed and the attending physician are subject to the requirements of IC 12-26-15-1.

SECTION 5. IC 35-36-3-1, AS AMENDED BY P.L.215-2001, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) If at any time before the final submission of any criminal case to the court or the jury trying the case, the court has reasonable grounds for believing that the defendant lacks the ability to understand the proceedings and assist in the preparation of ~~his~~ **a** defense, the court shall immediately fix a time for a hearing to determine whether the defendant has that ability. The court shall appoint two (2) or three (3) competent, disinterested:

(1) psychiatrists; **or**

(2) psychologists endorsed by the Indiana state board of examiners in psychology as health service providers in psychology. ~~or physicians,~~

At least one (1) of ~~whom~~ **the individuals appointed under this subsection** must be a psychiatrist. ~~who~~ **However, none may be an employee or a contractor of a state institution (as defined in IC 12-7-2-184). The individuals who are appointed** shall examine the defendant and testify at the hearing as to whether the defendant can understand the proceedings and assist in the preparation of the defendant's defense.

(b) At the hearing, other evidence relevant to whether the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense may be introduced. If the court finds that the defendant has the ability to understand the proceedings and assist in the preparation of the defendant's defense, the trial shall proceed. If the court finds that the defendant lacks this ability, it shall delay or continue the trial and order the defendant committed to the division of mental health and addiction. ~~to be confined by the division in an appropriate psychiatric institution.~~ **The division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration services by a third party in the:**

(1) location where the defendant currently resides; or

(2) least restrictive setting appropriate to the needs of the defendant and the safety of the defendant and others.

However, if the defendant is serving an unrelated executed sentence in the department of correction at the time the defendant is committed to the division of mental health and addiction under this section, the division of mental health and addiction shall provide competency restoration services or enter into a contract for the provision of competency restoration

services by a third party at a department of correction facility agreed upon by the division of mental health and addiction or the third party contractor and the department of correction.

SECTION 6. IC 35-36-3-2, AS AMENDED BY P.L.215-2001, SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. Whenever the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense:

(1) the ~~division of mental health and addiction, through the superintendent of the appropriate psychiatric institution,~~ **superintendent of the state institution (as defined in IC 12-7-2-184); or**

(2) if the division of mental health and addiction entered into a contract for the provision of competency restoration services, the director or medical director of the third party contractor;

shall certify that fact to the proper court, which shall enter an order directing the sheriff to return the defendant. The court ~~may~~ **shall** enter such an order immediately after being sufficiently advised of the defendant's attainment of the ability to understand the proceedings and assist in the preparation of the defendant's defense. Upon the return to court of any defendant committed under section 1 of this chapter, the court shall hold the trial as if no delay or postponement had occurred.

SECTION 7. IC 35-36-3-3, AS AMENDED BY P.L.215-2001, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** Within ninety (90) days after:

(1) a defendant's ~~admittance to a psychiatric institution, the superintendent of the psychiatric institution~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(2) the initiation of competency restoration services to a defendant by a third party contractor;

the superintendent of the state institution (as defined in IC 12-7-2-184) or the director or medical director of the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall certify to the proper court whether the defendant has a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense within the foreseeable future.

(b) If a substantial probability does not exist, the ~~division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or the third party contractor** shall initiate regular commitment proceedings under IC 12-26. If a substantial probability does exist, the ~~division of mental health and addiction~~ **state institution (as defined in IC 12-7-2-184) or third party contractor** shall retain the defendant:

(1) until the defendant attains the ability to understand the proceedings and assist in the preparation of the defendant's defense and is returned to the proper court for trial; or

(2) for six (6) months from the date of the:

(A) defendant's ~~admittance~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(B) initiation of competency restoration services by a third party contractor;

whichever first occurs.

SECTION 8. IC 35-36-3-4, AS AMENDED BY P.L.215-2001, SECTION 112, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. If a defendant who was found under section 3 of this chapter to have had a substantial probability of attaining the ability to understand the proceedings and assist in the preparation of the defendant's defense has not attained that ability within six (6) months after the date of the:

(1) defendant's ~~admittance to a psychiatric institution, the division of mental health and addiction~~ **admission to a state institution (as defined in IC 12-7-2-184); or**

(2) initiation of competency restoration services by a third party contractor;

the state institution (as defined in IC 12-7-2-184) or the third party contractor, if the division of mental health and addiction has entered into a contract for the provision of competency restoration services by a third party, shall institute regular commitment proceedings under IC 12-26.

(Reference is to EHB 1300 as reprinted February 25, 2004.)

BOTTORFF	LONG
THOMAS	BRODEN
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1273–1; filed March 3, 2004, at 4:59p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1273 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 27-8-10-2.1, AS AMENDED BY P.L.178-2003, SECTION 63, AND P.L.193-2003, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2.1. (a) There is established a nonprofit legal entity to be referred to as the Indiana comprehensive health insurance association, which must assure that health insurance is made available throughout the year to each eligible Indiana resident applying to the association for coverage. All carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers providing health insurance or health care services in Indiana must be members of the association. The association shall operate under a plan of operation established and approved under subsection (c) and shall exercise its powers through a board of directors established under this section.

(b) The board of directors of the association consists of ~~*seven (7)*~~ *nine (9)* members whose principal residence is in Indiana selected as follows:

(1) ~~*Three (3)*~~ *Four (4)* members to be appointed by the commissioner from the members of the association, one (1) of which must be a representative of a health maintenance organization.

(2) Two (2) members to be appointed by the commissioner shall be consumers representing policyholders.

(3) Two (2) members shall be the state budget director or designee and the commissioner of the department of insurance or designee.

(4) One (1) member to be appointed by the commissioner must be a representative of health care providers.

The commissioner shall appoint the chairman of the board, and the board shall elect a secretary from its membership. The term of office of each appointed member is three (3) years, subject to eligibility for reappointment. Members of the board who are not state employees may be reimbursed from the association's funds for expenses incurred in attending meetings. The board shall meet at least semiannually, with the first meeting to be held not later than May 15 of each year.

(c) The association shall submit to the commissioner a plan of operation for the association and any amendments to the plan necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation becomes effective upon approval in writing by the commissioner consistent with the date on which the coverage under this chapter must be made available. The commissioner shall, after notice and hearing, approve the plan of operation if the plan is determined to be suitable to assure the fair, reasonable, and equitable administration of the association and provides for the sharing of association losses on an equitable, proportionate basis among the member carriers, health maintenance organizations, limited service health maintenance organizations, and self-insurers. If the association fails to submit a suitable plan of operation within one hundred eighty (180) days after the appointment of the board of directors, or at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall adopt rules under IC 4-22-2 necessary or advisable to implement this section. These rules are effective until modified by the commissioner or superseded by a plan submitted by the association and approved by

the commissioner. The plan of operation must:

(1) establish procedures for the handling and accounting of assets and money of the association;

(2) establish the amount and method of reimbursing members of the board;

(3) establish regular times and places for meetings of the board of directors;

(4) establish procedures for records to be kept of all financial transactions and for the annual fiscal reporting to the commissioner;

(5) establish procedures whereby selections for the board of directors will be made and submitted to the commissioner for approval;

(6) contain additional provisions necessary or proper for the execution of the powers and duties of the association; and

(7) establish procedures for the periodic advertising of the general availability of the health insurance coverages from the association.

(d) The plan of operation may provide that any of the powers and duties of the association be delegated to a person who will perform functions similar to those of this association. A delegation under this section takes effect only with the approval of both the board of directors and the commissioner. The commissioner may not approve a delegation unless the protections afforded to the insured are substantially equivalent to or greater than those provided under this chapter.

(e) The association has the general powers and authority enumerated by this subsection in accordance with the plan of operation approved by the commissioner under subsection (c). The association has the general powers and authority granted under the laws of Indiana to carriers licensed to transact the kinds of health care services or health insurance described in section 1 of this chapter and also has the specific authority to do the following:

(1) Enter into contracts as are necessary or proper to carry out this chapter, subject to the approval of the commissioner.

(2) **Subject to section 2.6 of this chapter,** sue or be sued, including taking any legal actions necessary or proper for recovery of any assessments for, on behalf of, or against participating carriers.

(3) Take legal action necessary to avoid the payment of improper claims against the association or the coverage provided by or through the association.

(4) Establish a medical review committee to determine the reasonably appropriate level and extent of health care services in each instance.

(5) Establish appropriate rates, scales of rates, rate classifications and rating adjustments, such rates not to be unreasonable in relation to the coverage provided and the reasonable operational expenses of the association.

(6) Pool risks among members.

(7) Issue policies of insurance on an indemnity or provision of service basis providing the coverage required by this chapter.

(8) Administer separate pools, separate accounts, or other plans or arrangements considered appropriate for separate members or groups of members.

(9) Operate and administer any combination of plans, pools, or other mechanisms considered appropriate to best accomplish the fair and equitable operation of the association.

(10) Appoint from among members appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the association, policy and other contract design, and any other function within the authority of the association.

(11) Hire an independent consultant.

(12) Develop a method of advising applicants of the availability of other coverages outside the association. ~~*and may promulgate a list of health conditions the existence of which would deem an applicant eligible without demonstrating a rejection of coverage by one (1) carrier.*~~

(13) Provide for the use of managed care plans for insureds, including the use of:

(A) health maintenance organizations; and

(B) preferred provider plans.

(14) Solicit bids directly from providers for coverage under this chapter.

(15) Subject to section 3 of this chapter, negotiate reimbursement rates and enter into contracts with individual health care providers and health care provider groups.

(f) ~~*The board shall obtain an actuarial recommendation for development of an equitable methodology for determination of member assessments.*~~

~~*(g)*~~ Rates for coverages issued by the association may not be unreasonable in relation to the benefits provided, the risk experience, and the reasonable expenses of providing the coverage. Separate scales of premium rates based on age apply for individual risks. Premium rates must take into consideration the extra morbidity and administration expenses, if any, for risks insured in the association. The rates for a given classification may ~~*not*~~ be:

(1) not more than one hundred fifty percent (150%) of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year *for an insured whose family income is less than three hundred fifty-one percent (351%) of the federal income poverty level for the same size family; and*

(2) an amount equal to:

(A) not less than one hundred fifty-one percent (151%); and

(B) not more than two hundred percent (200%);

of the average premium rate for that class charged by the five (5) carriers with the largest premium volume in the state during the preceding calendar year, for an insured whose family income is more than three hundred fifty percent (350%) of the federal income poverty level for the same size family.

In determining the average rate of the five (5) largest carriers, the rates charged by the carriers shall be actuarially adjusted to determine the rate that would have been charged for benefits **substantially** identical to those issued by the association. **Additionally, subject to the limitations set forth in subdivisions (1) and (2), the association may, on October 1 of each year, adjust the rates as described in section 2.2 of this chapter.** All rates adopted by the association must be submitted to the commissioner for approval.

(g) ~~*(h)*~~ Following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. **Twenty-five percent (25%) of** any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums **as reported to the department of insurance,** excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association. ~~or any other equitable basis as may be provided in the plan of operation. *For self-insurers, health maintenance organizations, and limited service health maintenance organizations that are members of the association, the proportionate share of losses must be determined through the application of an equitable formula based upon claims paid, excluding claims for Medicaid contracts with the state of Indiana, or the value of services provided.*~~ **Seventy-five percent (75%) of any net loss shall be paid by the state.** In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. ~~*Except as provided in sections 12 and 13 of this chapter,*~~ Net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in subsection (b)(1), subject to final approval by the commissioner.

(h) ~~*(i)*~~ The association shall conduct periodic audits to assure the general accuracy of the financial data submitted to the association, and the association shall have an annual audit of its operations by an independent certified public accountant.

(i) ~~*(j)*~~ The association is subject to examination by the department

of insurance under IC 27-1-3.1. The board of directors shall submit, not later than March 30 of each year, a financial report for the preceding calendar year in a form approved by the commissioner.

(j) ~~*(k)*~~ All policy forms issued by the association must conform in substance to prototype forms developed by the association, must in all other respects conform to the requirements of this chapter, and must be filed with and approved by the commissioner before their use.

(k) ~~*(l)*~~ The association may not issue an association policy to any individual who, on the effective date of the coverage applied for, does not meet the eligibility requirements of section 5.1 of this chapter.

~~*(l) The association shall pay an agent's insurance producer's referral fee of twenty-five dollars ($25) to each insurance agent producer who refers an applicant to the association if that applicant is accepted.*~~

~~(m)~~ **(l)** The association and the premium collected by the association shall be exempt from the premium tax, the adjusted gross income tax, or any combination of these upon revenues or income that may be imposed by the state.

~~(n)~~ **(m)** Members who, ~~after July 1, 1983,~~ during any calendar year, have paid one (1) or more assessments levied under this chapter may ~~either:~~

~~(1) take a credit against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues or income of member insurers that may be imposed by the state, up to the amount of the taxes due for each calendar year in which the assessments were paid and for succeeding years until the aggregate of those assessments have been offset by either credits against those taxes or refunds from the association; or~~

~~(2)~~ any ~~member insurer may~~ include in the rates for premiums charged for insurance policies to which this chapter applies amounts sufficient to recoup a sum equal to the amounts paid to the association by the member less any amounts returned to the member insurer by the association, and the rates shall not be deemed excessive by virtue of including an amount reasonably calculated to recoup assessments paid by the member.

~~(o)~~ **(n)** The association shall provide for the option of monthly collection of premiums.

(o) The association shall periodically certify to the budget agency the amount necessary to pay seventy-five percent (75%) of any net loss as specified in subsection (g).

SECTION 2. IC 27-8-10-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.2. (a) Subject to subsections (b) and (c), a premium rate calculated under section 2.1 of this chapter may, on October 1 of each year, be adjusted by an amount equal to:**

(1) the percentage change in medical cost experienced by the association; minus

(2) the percentage change in the Indiana medical care component of the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics;

during the preceding calendar year.

(b) A positive or negative adjustment in the rate calculated under subsection (a) may not be greater than ten percent (10%).

(c) A premium rate adjustment under this section may not result in a premium rate that is more than the maximum premium rate allowed under section 2.1(f) of this chapter.

(d) This section expires June 30, 2006.

SECTION 3. IC 27-8-10-2.3, AS ADDED BY P.L.167-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.3. **(a)** A member shall, not later than October 31 of each year, certify an independently audited report to the:

(1) association;

(2) legislative council; and

(3) department of insurance;

of the amount of tax credits taken against assessments by the member under section ~~2.1(n)(1)~~ **2.1 (as in effect December 31, 2004) or 2.4** of this chapter during the previous calendar year.

(b) A member shall, not later than October 31 of each year, certify an independently audited report to the association of the amount of assessments paid by the member against which a tax credit has not been taken under section 2.1 (as in effect December 31, 2004) or 2.4 of this chapter as of the date of the report.

SECTION 4. IC 27-8-10-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 2.4. (a) Beginning January 1, 2005, a member that, before January 1, 2005, has:**

(1) paid an assessment; and

(2) not taken a credit against taxes;

under section 2.1 of this chapter (as in effect December 31, 2004) is not entitled to claim or carry forward the unused tax credit except as provided in this section.

(b) A member described in subsection (a) may, for each taxable year beginning after December 31, 2006, take a credit of not more than ten percent (10%) of the amount of the assessments paid before January 1, 2005, against which a tax credit has not been taken before January 1, 2005. A credit under this subsection may be taken against premium taxes, adjusted gross income taxes, or any combination of these, or similar taxes upon revenues or income of the member that may be imposed by the state, up to the amount of the taxes due for each taxable year.

(c) If the maximum amount of a tax credit determined under subsection (b) for a taxable year exceeds a member's liability for the taxes described in subsection (b), the member may carry the unused portion of the tax credit forward to subsequent taxable years. Tax credits carried forward under this subsection are not subject to the ten percent (10%) limit set forth in subsection (b).

(d) The total amount of credits taken by a member under this section in all taxable years may not exceed the total amount of assessments paid by the member before January 1, 2005, minus the total amount of tax credits taken by the member under section 2.1 of this chapter (as in effect December 31, 2004) before January 1, 2005.

SECTION 5. IC 27-8-10-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. (a) A member shall comply with the association's plan of operation.**

(b) A member assessment under section 2.1 of this chapter is due not more than thirty (30) days after the member receives written notice of the assessment. A member that pays an assessment after the due date shall pay interest on the assessment at the rate of six percent (6%) per annum.

SECTION 6. IC 27-8-10-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **Sec. 2.6. (a) If a:**

(1) member is aggrieved by an act of the association; or

(2) health care provider is aggrieved by an act of the association with respect to reimbursement to the provider under an association policy;

the member or health care provider shall, not more than ninety (90) days after the act occurs, appeal to the board of directors for review of the act.

(b) If:

(1) within thirty (30) days after an appeal is filed under subsection (a), the board of directors has not acted on the appeal; or

(2) a member or health care provider is aggrieved by a final action or decision of the board of directors;

the member or health care provider may appeal to the commissioner.

(c) An appeal to the commissioner under subsection (b) must be filed less than thirty (30) days after the:

(1) expiration of the thirty (30) day period specified in subsection (b)(1); or

(2) action or decision specified in subsection (b)(2).

(d) The commissioner shall, not more than forty-five (45) days after an appeal is filed under subsection (c), take a final action or issue an order regarding the appeal.

(e) A final action or order of the commissioner on an appeal filed under this section is subject to judicial review.

(f) If a member or health care provider sues the association, the court shall not award to the member or health care provider:

(1) attorney's fees or costs; or

(2) punitive damages.

SECTION 7. IC 27-8-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 15, 2004 (RETROACTIVE)]: Sec. 3. (a) An association policy issued under this chapter may pay ~~usual and customary charges or use other reimbursement systems that are consistent with managed care plans, including fixed fee schedules and capitated reimbursement, for medically necessary eligible health care services rendered or furnished for the diagnosis or treatment of illness or injury that exceed the deductible and coinsurance amounts applicable under section 4 of this chapter.~~ **an amount for medically necessary eligible expenses related to the diagnosis or treatment of illness or injury that exceed the deductible and coinsurance amounts applicable under section 4 of this chapter. Payment under an association policy must be based on one (1) or a combination of the following reimbursement methods, as determined by the board of directors:**

(1) The association's usual and customary fee schedule in effect on January 1, 2004. If payment is based on the usual and customary fee schedule in effect on January 1, 2004, the rates of reimbursement under the fee schedule must be adjusted annually by a percentage equal to the percentage change in the Indiana medical care component of the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics during the preceding calendar year.

(2) A health care provider network arrangement. If payment is based on a health care provider network arrangement, reimbursement under an association policy must be made according to:

(A) a network fee schedule for network health care providers and nonnetwork health care providers; and

(B) any additional coinsurance that applies to the insured under the association policy if the insured obtains health care services from a nonnetwork health care provider.

(b) Eligible expenses are the charges for the following health care services and articles to the extent furnished by a health care provider in an emergency situation or furnished or prescribed by a physician:

(1) Hospital services, including charges for the institution's most common semiprivate room, and for private room only when medically necessary, but limited to a total of one hundred eighty (180) days in a year.

(2) Professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than mental or dental, that are rendered by a physician or, at the physician's direction, by the physician's staff of registered or licensed nurses, and allied health professionals.

(3) The first twenty (20) professional visits for the diagnosis or treatment of one (1) or more mental conditions rendered during the year by one (1) or more physicians or, at their direction, by their staff of registered or licensed nurses, and allied health professionals.

(4) Drugs and contraceptive devices requiring a physician's prescription.

(5) Services of a skilled nursing facility for not more than one hundred eighty (180) days in a year.

(6) Services of a home health agency up to two hundred seventy (270) days of service a year.

(7) Use of radium or other radioactive materials.

(8) Oxygen.

(9) Anesthetics.

(10) Prostheses, other than dental.

(11) Rental of durable medical equipment which has no personal use in the absence of the condition for which prescribed.

(12) Diagnostic X-rays and laboratory tests.

(13) Oral surgery for:

(A) excision of partially or completely erupted impacted teeth;

(B) excision of a tooth root without the extraction of the entire tooth; or

(C) the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth.

(14) Services of a physical therapist and services of a speech therapist.

(15) Professional ambulance services to the nearest health care facility qualified to treat the illness or injury.

(16) Other medical supplies required by a physician's orders.

An association policy may also include comparable benefits for those who rely upon spiritual means through prayer alone for healing upon such conditions, limitations, and requirements as may be determined by the board of directors.

~~(b)~~ **(c)** A managed care organization that issues an association policy may not refuse to enter into an agreement with a hospital solely because the hospital has not obtained accreditation from an accreditation organization that:

(1) establishes standards for the organization and operation of hospitals;

(2) requires the hospital to undergo a survey process for a fee paid by the hospital; and

(3) was organized and formed in 1951.

~~(c)~~ **(d)** This section does not prohibit a managed care organization from using performance indicators or quality standards that:

(1) are developed by private organizations; and

(2) do not rely upon a survey process for a fee charged to the hospital to evaluate performance.

~~(d)~~ **(e)** For purposes of this section, if benefits are provided in the form of services rather than cash payments, their value shall be determined on the basis of their monetary equivalency.

~~(e)~~ **(f)** The following are not eligible expenses in any association policy within the scope of this chapter:

(1) Services for which a charge is not made in the absence of insurance or for which there is no legal obligation on the part of the patient to pay.

(2) Services and charges made for benefits provided under the laws of the United States, including Medicare and Medicaid, military service connected disabilities, medical services provided for members of the armed forces and their dependents or for employees of the armed forces of the United States, medical services financed in the future on behalf of all citizens by the United States.

(3) Benefits which would duplicate the provision of services or payment of charges for any care for injury or disease either:

(A) arising out of and in the course of an employment subject to a worker's compensation or similar law; or

(B) for which benefits are payable without regard to fault under a coverage statutorily required to be contained in any motor vehicle or other liability insurance policy or equivalent self-insurance.

However, this subdivision does not authorize exclusion of charges that exceed the benefits payable under the applicable worker's compensation or no-fault coverage.

(4) Care which is primarily for a custodial or domiciliary purpose.

(5) Cosmetic surgery unless provided as a result of an injury or medically necessary surgical procedure.

(6) Any charge for services or articles the provision of which is not within the scope of the license or certificate of the institution or individual rendering the services.

~~(f)~~ **(g)** The coverage and benefit requirements of this section for association policies may not be altered by any other inconsistent state law without specific reference to this chapter indicating a legislative intent to add or delete from the coverage requirements of this chapter.

~~(g)~~ **(h)** This chapter does not prohibit the association from issuing additional types of health insurance policies with different types of benefits that, in the opinion of the board of directors, may be of benefit to the citizens of Indiana.

~~(h)~~ **(i)** This chapter does not prohibit the association or its administrator from implementing uniform procedures to review the medical necessity and cost effectiveness of proposed treatment, confinement, tests, or other medical procedures. Those procedures may take the form of preadmission review for nonemergency hospitalization, case management review to verify that covered individuals are aware of treatment alternatives, or other forms of utilization review. Any cost containment techniques of this type must be adopted by the board of directors and approved by the commissioner.

SECTION 8. IC 27-8-10-3.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.2. Except as provided in section 3.6 of this chapter, a health care provider shall not bill an insured for any amount that exceeds:**

(1) the payment made by the association under the association policy for eligible expenses incurred by the insured; and

(2) any copayment, deductible, or coinsurance amounts applicable under the association policy.

SECTION 9. IC 27-8-10-14, AS AMENDED BY SEA 106-2004, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) Notwithstanding section 2.1 of this chapter: ~~for the period beginning July 1, 2003, and ending March 15, 2004:~~

(1) fifty percent (50%) of any net loss determined under ~~section 2.1(h)~~ **section 2.1** of this chapter shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association; and

(2) fifty percent (50%) of any net loss determined under ~~section 2.1(h)~~ **section 2.1** of this chapter shall be assessed by the association to all members in proportion to their respective shares of the number of individuals in Indiana who are covered under health insurance provided by a member, excluding individuals who are covered under Medicaid contracts with the state during the calendar year coinciding with or ending during the fiscal year of the association.

(b) This section expires ~~March 15, 2004.~~ **January 1, 2005.**

SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 27-8-10-12; IC 27-8-10-13.

SECTION 11. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: **(a) Notwithstanding IC 27-8-10-2.1, as amended by this act:**

(1) fifty percent (50%) of any net loss determined under IC 27-8-10-2.1, as in effect on January 1, 2004, shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums, excluding premiums for Medicaid contracts with the state, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association; and

(2) fifty percent (50%) of any net loss determined under IC 27-8-10-2.1, as in effect on January 1, 2004, shall be assessed by the association to all members in proportion to their respective shares of the number of individuals in Indiana who are covered under health insurance provided by a member, excluding individuals who are covered under Medicaid contracts with the state during the calendar year coinciding with or ending during the fiscal year of the association.

(b) This section expires May 1, 2004.

SECTION 12. [EFFECTIVE JANUARY 1, 2005] **The amounts certified to the budget agency under IC 27-8-10-2.1(o), as amended by this act, beginning January 1, 2005, and ending June 30, 2005, are appropriated to the budget agency for its use in making the payments required by IC 27-8-10-2.1(g), as amended by this act, beginning January 1, 2005, and ending June 30, 2005.**

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 27-8-10-1 apply throughout this SECTION.**

(b) An insured who was, after June 30, 2003, and before the effective date of IC 27-8-10-3.2, as added by this act, billed by a health care provider for an amount that exceeded:

(1) the payment made by the association under the insured's association policy for eligible expenses incurred by the insured; and

(2) any copayment, deductible, or coinsurance amounts applicable under the association policy;

and paid all or a portion of the amount may, not later than December 31, 2004, submit to the association proof of the insured's payment. The association shall reimburse the insured the amount for which proof of payment is submitted by the insured.

(c) All amounts reimbursed by the association under this SECTION shall be assessed by the association to all members of the association according to the member assessment methodology in effect on the date of the assessment under:

(1) IC 27-8-10; or

(2) SECTION 11 of this act.

(d) This SECTION expires December 31, 2006.

SECTION 14. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 27-8-10-1 apply throughout this SECTION.**

(b) IC 27-8-10-3.2, as added by this act, applies to any billing that occurs on or after the effective date of IC 27-8-10-3.2, as added by this act, regardless of when the health care services to which the bill applies were provided.

SECTION 15. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1273 as reprinted February 24, 2004.)

FRY	MILLER
RIPLEY	LANANE
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
ESB 278–1; filed March 3, 2004, at 5:00 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 278 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-2.5-10-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 5. (a) As used in this section, "NAICS code" refers to the code used to classify a particular industry in the current edition of the North American Industry Classification System Manual - United States, published by the National Technical Information Service of the United States Department of Commerce.**

(b) The department shall collect and maintain for all retail merchants information concerning the NAICS codes of the merchants.

(Reference is to ESB 278 as reprinted February 20, 2004.)

SERVER	KLINKER
SIMPSON	KOCH
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1434–1; filed March 3, 2004, at 5:01 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1434 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-3-12-3, AS AMENDED BY P.L.58-2002, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The corporation, after being certified by the governor under section 1 of this chapter, may:

(1) establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented enterprises;

(2) conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized

expertise;

(3) establish a statewide network of public, private, and educational resources to assist the organization and development of new enterprises;

(4) operate a small business assistance center to provide small businesses, including minority owned businesses and businesses owned by women, with access to managerial and technical expertise and to provide assistance in resolving problems encountered by small businesses;

(5) cooperate with the Indiana business modernization and technology corporation, other public and private entities, including the Indiana small business development network and the federal government marketing program, in exercising the powers listed in subdivisions (1) through (4);

~~(6) establish and administer the small and minority business assistance program under IC 4-3-16;~~

~~(7) approve and administer loans from the enterprise development fund established under IC 4-3-13;~~ and

~~(8)~~ **(6)** coordinate state-funded programs that assist the organization and development of new enterprises.

SECTION 2. IC 4-3-13-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1.5. As used in this chapter, "corporation" refers to the Indiana ~~small business~~ **economic** development ~~corporation.~~ **council established under IC 4-3-14.**

SECTION 3. IC 4-3-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. As used in this chapter, "fund" refers to the ~~enterprise development~~ **microenterprise partnership program** fund **established by section 9 of this chapter.**

SECTION 4. IC 4-3-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The general assembly makes the following findings of fact:

(1) There exists in Indiana an inadequate amount of locally managed, pooled investment capital in the private sector available to invest in new and existing business ventures, including business ventures by nontraditional entrepreneurs.

(2) Investing capital and business management advice in new and existing business ventures, including business ventures by nontraditional entrepreneurs, will enhance economic development and create and retain employment within Indiana. This investment will enhance the health and general welfare of the people of Indiana and constitutes a public purpose.

(3) Nontraditional entrepreneurs have not engaged in entrepreneurship and self-employment to the extent found in the mainstream of Indiana's population. Realizing the potential of these nontraditional entrepreneurs will enhance Indiana's economic vitality.

(b) Therefore, it is declared to be the policy of the state to promote economic development and entrepreneurial talent of the state's inhabitants by the creation of the ~~enterprise development~~ fund for the public purpose of promoting opportunities for gainful employment and business opportunities.

SECTION 5. IC 4-3-13-9, AS AMENDED BY P.L.58-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) The ~~enterprise development~~ **microenterprise partnership program** fund is established. The fund is a revolving fund for the purpose of:

(1) providing loans approved by the corporation under this chapter and IC 4-3-12-3;

(2) providing loans or loan guarantees under the small and minority business financial assistance program established by IC 4-3-16;

(3) carry out the microenterprise partnership program under IC 4-4-32.4; and

~~(3)~~ **(4)** paying the costs of administering this chapter, ~~and~~ IC 4-3-16, **and IC 4-4-32.4.**

The fund shall be administered by the corporation.

(b) The fund consists of:

(1) amounts appropriated by the general assembly;

(2) the repayment proceeds (including interest) of loans made from the fund; and

(3) donations, grants, and money received from any other source.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of this audit.

SECTION 6. IC 4-3-13-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) As used in this section, "eligible entity" means any partnership, unincorporated association, corporation, or limited liability company, whether or not operated for profit, that is established for the purpose of establishing a local investment pool.

(b) A local investment pool may be established only by an eligible entity. A political subdivision may participate in the establishment of an eligible entity but may not be the sole member of the eligible entity.

(c) The articles of incorporation or bylaws of the eligible entity, as appropriate, must provide the following:

(1) The exclusive purpose of the eligible entity is to establish a local investment pool to:

(A) attract private equity investment to provide grants, equity investments, loans, and loan guarantees for the establishment or operation of businesses in Indiana; and

(B) provide a low to moderate rate of return to investors in the short term, with higher rates of return in the long term.

(2) The governing body of the eligible entity must include:

(A) persons who are qualified by professional background and business experience to make sound financial and investment decisions in the private sector; and

(B) representatives of nontraditional entrepreneurs.

(3) The eligible entity may receive funds from:

(A) equity investors;

(B) grants and loans from local units of government;

(C) grants and loans from the federal government;

(D) donations; and

(E) loans from the ~~enterprise development~~ fund.

SECTION 7. IC 4-3-13-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 20. (a) A local opportunity pool may be established only by a nonprofit corporation or a for profit corporation established for that purpose. A political subdivision may participate in the establishment of such a corporation but may not be the sole member of the corporation.

(b) The articles of incorporation or bylaws of the corporation, as appropriate, must provide the following:

(1) The exclusive purpose of the corporation is to establish a local opportunity pool to:

(A) attract sources of funding other than private equity investment to provide grants, loans, and loan guarantees for the establishment or operation of nontraditional entrepreneurial endeavors in Indiana; and

(B) enter into financing agreements that seek the return of the principal amounts advanced by the pool, with the potential for a greater return.

(2) The board of directors of the corporation must include:

(A) persons who are actively engaged in Indiana in private enterprise, organized labor, or state or local governmental agencies and who are qualified by professional background and business experience to make sound financial and investment decisions in the private sector; and

(B) representatives of nontraditional entrepreneurs.

(3) The corporation may receive funds from:

(A) philanthropic foundations;

(B) grants and loans from local units of government;

(C) grants and loans from the federal government;

(D) donations;

(E) bequests; and

(F) loans from the ~~enterprise development~~ fund.

SECTION 8. IC 4-3-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The articles of incorporation or bylaws of the corporation, as appropriate, must provide that:

(1) the exclusive purpose of the corporation is to contribute to the strengthening of the economy of the state by:

(A) coordinating the activities of all parties having a role in the state's economic development through evaluating, overseeing, and appraising those activities on an ongoing basis;

(B) overseeing the implementation of the state's economic development plan and monitoring the updates of that plan; and

(C) educating and assisting all parties involved in improving the long range vitality of the state's economy;

(2) the board must include:

(A) the governor;

(B) the lieutenant governor;

(C) the chief operating officer of the corporation;

(D) the chief operating officer of the corporation for Indiana's international future; and

(E) additional persons appointed by the governor, who are actively engaged in Indiana in private enterprise, organized labor, state or local governmental agencies, and education, and who represent the diverse economic and regional interests throughout Indiana;

(3) the governor shall serve as chairman of the board of the corporation, and the lieutenant governor shall serve as the chief executive officer of the corporation;

(4) the governor shall appoint as vice chairman of the board a member of the board engaged in private enterprise;

(5) the lieutenant governor shall be responsible as chief executive officer for overseeing implementation of the state's economic development plan as articulated by the corporation and shall oversee the activities of the corporation's chief operating officer;

(6) the governor may appoint an executive committee composed of members of the board (size and structure of the executive committee shall be set by the articles and bylaws of the corporation);

(7) the corporation may receive funds from any source and may expend funds for any activities necessary, convenient, or expedient to carry out its purposes;

(8) any amendments to the articles of incorporation or bylaws of the corporation must be approved by the governor;

(9) the corporation shall submit an annual report to the governor and to the Indiana general assembly on or before the first day of November for each year;

(10) the corporation shall conduct an annual public hearing to receive comment from interested parties regarding the annual report, and notice of the hearing shall be given at least fourteen (14) days prior to the hearing in accordance with IC 5-14-1.5-5(b); and

(11) the corporation is subject to an annual audit by the state board of accounts, and the corporation shall bear the full costs of this audit.

(b) The corporation may perform other acts and things necessary, convenient, or expedient to carry out the purposes identified in this section, and it has all rights, powers, and privileges granted to corporations by IC 23-17 and by common law.

(c) The corporation shall:

(1) approve and administer loans from the microenterprise partnership program fund established under IC 4-3-13-9;

(2) establish and administer the nontraditional entrepreneur program under IC 4-3-13;

(3) establish and administer the small and minority business assistance program under IC 4-3-16; and

(4) establish and administer the microenterprise partnership program under IC 4-4-32.4.

SECTION 9. IC 4-3-16-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.5. As used in this chapter, "corporation" refers to the Indiana ~~small business~~ **economic** development ~~corporation.~~ **council established under IC 4-3-14.**

SECTION 10. IC 4-3-16-2.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2.7. As used in this chapter, "fund" refers to the ~~enterprise development~~ **microenterprise partnership program** fund established by IC 4-3-13-9.

SECTION 11. IC 4-4-32.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 32.4. Microenterprise Partnership Program

Sec. 1. As used in this chapter, "council" means the Indiana economic development council established under IC 4-3-14.

Sec. 2. As used in this chapter, "microenterprise" means a business with fewer than five (5) employees. The term includes startup, home based, and self-employed businesses.

Sec. 3. As used in this chapter, "microloan" means a business loan of not more than twenty-five thousand dollars ($25,000).

Sec. 4. As used in this chapter, "microloan delivery organization" means a community based or nonprofit program that:

(1) has developed a viable plan for providing training, access to financing, and technical assistance to microenterprises; and

(2) meets the criteria and qualifications set forth in this chapter.

Sec. 5. As used in this chapter, "operating costs" refers to the costs associated with administering a loan or a loan guaranty, administering a revolving loan program, or providing for business training and technical assistance to a microloan recipient.

Sec. 6. As used in this chapter, "program" refers to the microenterprise partnership program established under section 7 of this chapter.

Sec. 7. (a) The council shall establish the microenterprise partnership program to provide grants to microloan delivery organizations.

(b) A grant provided under subsection (a) may not exceed twenty-five thousand dollars ($25,000).

(c) A microloan delivery organization receiving a grant under this section must use the grant for the purposes set forth in this chapter.

Sec. 8. To establish the criteria for making a grant to a microloan delivery organization, the council shall consider the following:

(1) The microloan delivery organization's plan for providing business development services and microloans to microenterprises.

(2) The scope of services provided by the microloan delivery organization.

(3) The microloan delivery organization's plan for coordinating the services and loans provided under this chapter with those provided by commercial lending institutions.

(4) The geographic representation of all regions of the state, including both urban and rural communities and neighborhoods.

(5) The microloan delivery organization's emphasis on supporting female and minority entrepreneurs.

(6) The ability of the microloan delivery organization to provide business training and technical assistance to microenterprises.

(7) The ability of the microloan delivery organization to monitor and provide financial oversight of recipients of microloans.

(8) The sources and sufficiency of the microloan delivery organization's operating funds.

Sec. 9. A grant received by a microloan delivery organization may be used for the following purposes:

(1) To satisfy matching fund requirements for federal or private grants.

(2) To establish a revolving loan fund from which the microloan delivery organization may make loans to microenterprises.

(3) To establish a guaranty fund from which the microloan delivery organization may guarantee loans made by commercial lending institutions to microenterprises.

(4) To pay the operating costs of the microloan delivery organization. However, not more than ten percent (10%) of a grant may be used for this purpose.

Sec. 10. Money appropriated to the program must be matched by at least an equal amount of money derived from any of the following nonstate sources:

(1) Private foundations.
(2) Federal sources.
(3) Local government sources.
(4) Quasi-governmental entities.
(5) Commercial lending institutions.
(6) Any other source whose funds do not include money appropriated by the general assembly.

Sec. 11. At least fifty percent (50%) of the microloan money disbursed by a microloan delivery organization must be disbursed in microloans that do not exceed ten thousand dollars ($10,000).

Sec. 12. The council may prescribe standards, procedures, and other guidelines to implement this chapter.

Sec. 13. The council may use money in the microenterprise partnership program fund established by IC 4-3-13-9 or any other money available to the council to carry out this chapter.

Sec. 14. Before August 1, 2005, and before August 1 of each year thereafter, the council shall submit to the budget committee a supplemental report on a longitudinal study:

(1) describing the economic development outcomes resulting from microloans made under this chapter; and
(2) evaluating the effectiveness of the microloan delivery organizations and the microloans made under this chapter in:
(A) expanding employment and self-employment opportunities in Indiana; and
(B) increasing the incomes of persons employed by microenterprises.

SECTION 12. [EFFECTIVE JULY 1, 2004] **(a) After June 30, 2004, any reference in any law, rule, or other document to the enterprise development fund shall be treated as a reference to the microenterprise partnership program fund.**

(b) After June 30, 2004, any reference in any law, rule, or other document to the Indiana small business development corporation as it relates to the programs established under IC 4-3-13 and IC 4-3-16, as effective before July 1, 2004, shall be treated as a reference to the Indiana economic development council.

(c) Effective July 1, 2004, any property or liabilities accruing to the Indiana small business development corporation in connection with the administration of IC 4-3-13 and IC 4-3-16, as effective before July 1, 2004, are transferred to the Indiana economic development council.

(d) This SECTION expires July 1, 2005.

SECTION 13. IC 4-4-30-8, AS ADDED BY P.L.159-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) The coal technology research fund is established to provide money for the center for coal technology research and for the director to carry out the duties specified under this chapter. The budget agency shall administer the fund.

(b) The fund consists of the following:
(1) Money appropriated **or otherwise designated or dedicated** by the general assembly.
(2) Gifts, grants, and bequests.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as the treasurer may invest other public funds.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 14. IC 4-12-10-3, AS ADDED BY P.L.26-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) The Indiana economic development partnership fund is established to provide grants for economic development initiatives that support the following:

(1) The establishment of regional technology **and entrepreneurship** centers for the creation of high technology companies **to support access to technology for existing businesses** and for the support of workforce development.
(2) The providing of leadership and technical support necessary for the centers' start-up operations and long term success.
(3) The expansion of the Purdue Technical Assistance Program **to other higher education institutions** in ten (10) geographic regions of Indiana.
(4) The creation of a rural/community economic development regional outreach program by Purdue University.
(5) The expansion of workforce development for high technology business development through the centers.

(b) The fund shall be administered by the budget agency. The fund consists of appropriations from the general assembly and gifts and grants to the fund, **including money received from the state technology advancement and retention account established by IC 4-12-12-1.**

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter.

SECTION 15. IC 4-12-10-4, AS ADDED BY P.L.26-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The budget agency, after review by the budget committee, shall **enter into an agreement with the department of commerce to** do the following:

(1) Review, prioritize, and approve or disapprove proposals for centers.
(2) Create detailed application procedures and selection criteria for center proposals. These criteria may include the following:
(A) Geographical proximity to and partnership agreement with an Indiana public or private university.
(B) Proposed local contributions to the center.
(C) Minimum standards and features for the physical facilities of a center, including telecommunications infrastructure.
(D) The minimum support services, both technical and financial, that must be provided by the centers.
(E) Guidelines for selecting entities that may participate in the center.
(3) Develop performance measures and reporting requirements for the centers.
(4) Monitor the effectiveness of each center and report its findings to the governor, **the budget agency,** and the budget committee before October 1 of each even-numbered year.
~~(5) Contract with Purdue University for any staff support necessary for the budget agency to carry out this chapter.~~
~~(6)~~ **(5)** Approve a regional technology center only if the center agrees to do all of the following:
(A) Nurture the development and expansion of high technology ventures that have the potential to become high growth businesses.
(B) Increase high technology employment in Indiana.
(C) Stimulate the flow of new venture capital necessary to support the growth of high technology businesses in Indiana.
(D) Expand workforce education and training for highly skilled, high technology jobs.
(E) Affiliate with an Indiana public or private university and be located in close proximity to a university campus.
(F) Be a party to a written agreement among:
(i) the affiliated university;
(ii) the city or town in which the proposed center is located, or the county in which the proposed center is located if the center is not located in a city or town;
(iii) Purdue University, for technical and personnel training support; and
(iv) any other affiliated entities;
that outlines the responsibilities of each party.
(G) Establish a debt free physical structure designed to accommodate research and technology ventures.
(H) Provide support services, including business planning, management recruitment, legal services, securing of seed capital marketing, and mentor identification.
(I) Establish a commitment of local resources that is at least equal to the money provided from the fund for the physical facilities of the center.

(b) The ~~budget agency~~ **department of commerce** may not approve more than five (5) regional technology centers in any biennium.

(c) The budget agency shall contract with Purdue University:

(1) for any support staff necessary for the budget agency to provide grants under section 3(a)(3) and 3(a)(4) of this chapter; and

(2) to provide services under section 7 of this chapter.

SECTION 16. IC 4-12-10-6, AS ADDED BY P.L.26-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) If **the department of commerce and the budget agency approve** a center, ~~is approved by the budget agency,~~ the budget agency shall allocate from available appropriations the money authorized to:

(1) subsidize construction or rehabilitation of the physical facilities; and

(2) cover operating costs, not to exceed two hundred fifty thousand dollars ($250,000) each year, until the center is self-sustaining or has identified another source of operating money or the amount appropriated for this purpose is exhausted.

(b) Operating costs may not be supported by the fund for any center for more than four (4) years.

SECTION 17. IC 4-12-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 12. State Technology Advancement and Retention (STAR) Account

Sec. 1. The state technology advancement and retention (STAR) account is established within the state general fund. The purpose of the account is to provide funding for programs within Indiana that are designed to:

(1) advance and retain technology related enterprises within Indiana; and

(2) train and retain students with an emphasis on technology.

Sec. 2. The budget agency shall administer the STAR account.

Sec. 3. The account consists of money, including federal money, appropriated to the account by the general assembly and gifts and grants to the account. An appropriation, a gift, or a grant may be designated for one (1) or more purposes listed in section 6 of this chapter.

Sec. 4. The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public funds may be invested.

Sec. 5. Money in the account at the end of a state fiscal year reverts to the state general fund.

Sec. 6. Money in the account that is not otherwise designated under section 3 of this chapter is annually dedicated to the following:

(1) The certified school to career program and grants under IC 22-4.1-8.

(2) The certified internship program and grants under IC 22-4.1-7.

(3) The Indiana economic development partnership fund under IC 4-12-10.

(4) Minority training program grants under IC 22-4-18.1-11.

(5) Technology apprenticeship grants under IC 20-1-18.7.

(6) The back home in Indiana program under IC 22-4-18.1-12.

(7) The Indiana schools smart partnership under IC 22-4.1-9.

(8) The scientific instrument project within the department of education.

(9) The coal technology research fund under IC 4-4-30-8.

Sec. 7. Expenses for administering the account or any of the programs funded from the account may be taken from the account but may not exceed two percent (2%) of the balance in the account. The budget agency must approve administrative expenses taken from the account.

SECTION 18. IC 20-1-18.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Chapter 18.7. Technology Apprenticeship Grants**

Sec. 1. As used in this chapter, "department" refers to the department of education established by IC 20-1-1.1-2.

Sec. 2. As used in this chapter, "program" refers to the technology apprenticeship grant program established by section 3 of this chapter.

Sec. 3. The technology apprenticeship grant program is established. The department, with the advice of the department of labor established by IC 22-1-1-1, shall administer the program.

Sec. 4. The department, working with the department of labor, shall develop a grant program to provide grants from the state technology advancement and retention account established by IC 4-12-12-1 for apprenticeships that are designed to develop the skills of apprentices in the area of technology.

Sec. 5. The department, with the department of labor, shall develop standards for the issuance of grants to businesses and unions that are working to enhance the technology skills of apprentices.

Sec. 6. Grants issued under this chapter are subject to approval by the budget agency.

SECTION 19. IC 22-4-18.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. The state human resource investment council is established pursuant to 29 U.S.C. 1501 et seq. to do the following:

(1) Review the services and use of funds and resources under applicable federal programs and advise the governor on methods of coordinating the services and use of funds and resources consistent with the laws and regulations governing the particular applicable federal programs.

(2) Advise the governor on:

(A) the development and implementation of state and local standards and measures; and

(B) the coordination of the standards and measures;

concerning the applicable federal programs.

(3) Perform the duties as set forth in federal law of the particular advisory bodies for applicable federal programs described in section 4 of this chapter.

(4) Identify the human investment needs in Indiana and recommend to the governor goals to meet the investment needs.

(5) Recommend to the governor goals for the development and coordination of the human resource system in Indiana.

(6) Prepare and recommend to the governor a strategic plan to accomplish the goals developed under subdivisions (4) and (5).

(7) Monitor the implementation of and evaluate the effectiveness of the strategic plan described in subdivision (6).

(8) Advise the governor on the coordination of federal, state, and local education and training programs and on the allocation of state and federal funds in Indiana to promote effective services, service delivery, and innovative programs.

(9) **Administer the minority training grant program established by section 11 of this chapter.**

(10) Administer the back home in Indiana program established by section 12 of this chapter.

(11) Any other function assigned to the council by the governor with regard to the study and evaluation of Indiana's human service delivery system.

SECTION 20. IC 22-4-18.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) The council shall serve as the state advisory body required under the following federal laws:

(1) The ~~Job Training Partnership Act under 29 U.S.C. 1501 et seq.~~ **Workforce Investment Act of 1998 under 29 U.S.C. 2801 et seq.**

(2) The Wagner-Peyser Act under 29 U.S.C. 49 et seq.

(3) The Carl D. Perkins Vocational and Applied Technology Act under 20 U.S.C. 2301 et seq.

(4) The Adult Education **and Family Literacy** Act under 20 U.S.C. ~~1201~~ **9201** et seq.

(b) In addition, the council may be designated to serve as the state advisory body required under any of the following federal laws upon approval of the particular state agency directed to administer the particular federal law:

(1) The National and Community Service Act of 1990 under 42 U.S.C. 12501 et seq.

(2) Part ~~F~~ **A** of Title IV of the Social Security Act under 42

U.S.C. ~~681~~ **601** et seq.

(3) The employment and training program established under the Food Stamp Act of 1977 under 7 U.S.C. ~~2015(d)(4).~~ **2015.**

(c) The council shall administer the minority training grant program established by section 11 of this chapter and the back home in Indiana program established by section 12 of this chapter.

SECTION 21. IC 22-4-18.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Except as provided in subsections (b) and (c) and subject to the approval of the commissioner of workforce development, the state personnel department, and the budget agency, the council may employ professional, technical, and clerical personnel necessary to carry out the duties imposed by this chapter from funds available under applicable federal and state programs, appropriations by the general assembly for this purpose, **funds in the state technology advancement and retention account established by IC 4-12-12-1,** and any other funds (other than federal funds) available to the council for this purpose.

(b) Subject to the approval of the commissioner of workforce development and the budget agency, the council may contract for services necessary to implement this chapter.

(c) The budget agency shall serve as the fiscal agent for the distribution of all funds of the council.

SECTION 22. IC 22-4-18.1-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11. (a) For purposes of this section, "minority student" means a student who is a member of at least one (1) of the following groups:**

(1) Blacks.

(2) American Indians.

(3) Hispanics.

(4) Asian Americans.

(5) Other similar racial groups.

(b) The council shall develop a program to provide grants from the state technology advancement and retention account established by IC 4-12-12-1 for minority training programs for minority students. The grants must be used as follows:

(1) Thirty-five percent (35%) for programs designed to enhance training in technology advancement for minority students.

(2) Sixty-five percent (65%) for generalized training programs for minority students.

(c) The council shall adopt policies under which recipients may apply for and receive the grants.

(d) Grants issued under this section are subject to approval by the budget agency.

SECTION 23. IC 22-4-18.1-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12. (a) The council shall develop a program to provide for grants from the state technology advancement and retention account established by IC 4-12-12-1 or contracts to develop a back home in Indiana program. The program must provide a system to track students who have graduated from private and public colleges and universities in Indiana. The program must include a means of periodically contacting these graduates to inform them of job opportunities in Indiana.**

(b) The council shall work with the colleges and universities in Indiana to develop the tracking system.

(c) Grants issued under this section are subject to approval by the budget agency.

SECTION 24. IC 22-4.1-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 7. Certified Internship Programs and Grants

Sec. 1. As used in this chapter, "certified internship program" refers to an internship program that is certified by the department, in consultation with the department of education, under section 5 of this chapter.

Sec. 2. As used in this chapter, "employer" has the meaning set forth in IC 22-8-1.1-1.

Sec. 3. As used in this chapter, "institution of higher learning" has the meaning set forth in IC 20-12-70-4.

Sec. 4. As used in this chapter, "student" means an individual who is enrolled at an institution of higher learning on at least a part-time basis.

Sec. 5. (a) An institution of higher learning that seeks certification for an internship program under this chapter shall submit an application for certification to the department on a form prescribed by the department.

(b) The department, in consultation with the department of education, shall certify an internship program under this chapter if the program:

(1) is operated or administered by an institution of higher learning or a department, school, or program within an institution of higher learning;

(2) integrates a particular curriculum or course of study offered at the institution of higher learning with career internships provided by employers;

(3) places students in career internships provided by employers;

(4) requires participating students to meet certain academic standards established by rule by the department in consultation with the department of education;

(5) requires employers to provide to participating students the:

(A) supervision; and

(B) payroll and personnel services;

that the employers provide to their regular part-time employees;

(6) is designed to provide an internship experience that enriches and enhances the classroom experience of participating students;

(7) requires employers to comply with all state and federal laws pertaining to the workplace; and

(8) complies with any other requirement adopted by rule by the department after consultation with the department of education.

Sec. 6. A certified internship program may allow a student to participate in an internship at any time during the year, including the summer, as long as the student remains enrolled at the institution of higher learning that operates or administers the certified internship program.

Sec. 7. (a) The department may issue a grant from the state technology advancement and retention account established by IC 4-12-12-1 to an employer that employs at least one (1) student through a certified internship program.

(b) The department shall determine the amount of a grant issued under subsection (a).

(c) A grant issued under this section is subject to approval by the budget agency.

Sec. 8. The department, in consultation with the department of education, may adopt rules under IC 4-22-2 to implement this chapter. However, the department shall adopt rules under IC 4-22-2 to implement section 7 of this chapter.

SECTION 25. IC 22-4.1-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 8. Certified School to Career Programs and Grants

Sec. 1. As used in this chapter, "certified program" means a school to career program approved by the department, in conjunction with the department of education, that is conducted under an agreement under this chapter and that:

(1) integrates a secondary school curriculum with private sector job training;

(2) places students in job internships; and

(3) is designed to continue into postsecondary education and to result in teaching new skills, adding value to the wage earning potential of participants and increasing their long term employability in Indiana.

Sec. 2. As used in this chapter, "institution of higher learning" has the meaning set forth under IC 20-12-70-4.

Sec. 3. As used in this chapter, "participant" means an individual who:

(1) is at least sixteen (16) years of age and less than twenty-four (24) years of age;

(2) is enrolled in a public or private secondary or postsecondary school; and

(3) participates in a certified program as part of the individual's secondary or postsecondary school education.

Sec. 4. As used in this chapter, "sponsor" means an individual, a person, an association, a committee, an organization, or other entity operating a certified program and in whose name the certified program is registered or approved.

Sec. 5. (a) The department shall do the following:

(1) Accept applications from entities interested in sponsoring certified programs on forms prescribed by the department.

(2) Investigate each applicant to determine the suitability of the applicant to sponsor a certified program.

(3) Impose an application fee in an amount sufficient to pay the costs incurred in processing the application and investigating the applicant.

(b) The department may adopt rules under IC 4-22-2 to administer this chapter.

Sec. 6. (a) The department of education shall review the secondary school curriculum component of each proposed certified program. The department may not approve a proposed certified program unless the department of education approves the applicant's proposed secondary school curriculum.

(b) Upon the request of the department, the department of education shall:

(1) consult with the department before the adoption of rules under section 5 of this chapter; and

(2) provide any other assistance to the department.

Sec. 7. The department may not approve a certified program unless the following requirements are met:

(1) The program must be conducted under a written plan embodying the terms and conditions of employment, job training, classroom instruction, and supervision of one (1) or more participants, subscribed to by a sponsor who has undertaken to carry out the certified program.

(2) The program must comply with all state and federal laws pertaining to the workplace.

(3) The certified program agreement must provide that the sponsor or an employer participating in the program in cooperation with the sponsor agrees to assign an employee to serve as a mentor for a participant. The mentor's occupation must be in the same career pathway as the career interests of the participant.

(4) The program must comply with any other requirement adopted by rule by the department.

Sec. 8. (a) A certified program must comply with the terms of a written agreement among the sponsor, each participant, and each cooperating employer. Except as provided in sections 9 and 10 of this chapter, each agreement must contain the following:

(1) The names and signatures of:

(A) the sponsor;

(B) the employer (if the employer is an entity other than the sponsor); and

(C) the participant and the participant's parent or guardian if the participant is a minor.

(2) A description of the career field in which the participant is to be trained and the beginning date and duration of the training.

(3) The employer's agreement to provide paid employment for the participant at a base wage that may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act during the participant's junior and senior years in high school.

(4) The employer's agreement to assign an employee to serve as a mentor for a participant. The mentor's occupation must be in the same career pathway as the career interests of the participant.

(5) An agreement between the participant and employer concerning specified minimum academic standards that must be maintained throughout the participant's secondary education.

(6) The participant's agreement to work for the employer for at least two (2) years following the completion of the participant's secondary education.

(b) An agreement described in subsection (a)(6) may be modified to defer the participant's employment with the employer until after the participant completes an appropriate amount of postsecondary education as agreed to by the participant and the employer.

Sec. 9. (a) If a participant's desired career pathway requires postsecondary education, an agreement required under section 8 of this chapter may be modified to include the following:

(1) The employer's agreement to provide paid employment for the participant at a base wage that may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act during the participant's postsecondary education.

(2) An agreement that, in addition to the base wage paid to the participant, the employer shall pay an additional sum to be held in trust to be applied toward the participant's postsecondary education.

(3) The participant's agreement to work for the employer for at least two (2) years following the completion of the participant's postsecondary education.

(b) The additional amount described in subsection (a)(2) must not be less than an amount determined by the department to be sufficient to provide payment of tuition expenses toward completion of not more than two (2) academic years at an institution of higher learning. The amount shall be held in trust for the benefit of the participant under rules adopted by the department. Payment into a fund approved under the federal Employee Retirement Income Security Act of 1974 for the benefit of the participant satisfies this requirement. The approved fund must be specified in the agreement.

Sec. 10. (a) If a participant enters a certified program following the completion of the participant's secondary education, an agreement required under section 8 of this chapter must be modified to include the following:

(1) The employer's agreement to provide paid employment for the participant at a base wage that may not be less than the minimum wage prescribed by the federal Fair Labor Standards Act during the participant's postsecondary education.

(2) An agreement that, in addition to the base wage paid to the participant, the employer shall pay an additional sum to be applied toward the participant's postsecondary education. This amount may be paid directly to the participant's institution of higher learning on behalf of the participant.

(3) The participant's agreement to work for the employer for at least two (2) years following the completion of the participant's postsecondary education.

(b) The additional amount described in subsection (a)(2) must not be less than an amount determined by the department to be sufficient to provide payment of tuition expenses toward completion of not more than two (2) academic years at an institution of higher learning.

Sec. 11. If a participant does not complete the certified program contemplated by the agreement before entering a postsecondary education program, the money being held in trust for the participant's postsecondary education must be paid back to the employer.

Sec. 12. If a participant does not complete the certified program contemplated by an agreement described in section 8, 9, or 10 of this chapter after entering a postsecondary education program, any unexpended funds being held in trust for the participant's postsecondary education must be paid back to the employer. In addition, the participant shall repay to the employer amounts paid from the trust that were expended on the participant's behalf for the participant's postsecondary education.

Sec. 13. If a participant does not complete the two (2) year employment obligation required under an agreement described in section 8, 9, or 10 of this chapter, the participant shall repay to the employer the amount paid by the employer toward the participant's postsecondary education expenses under this chapter.

Sec. 14. (a) The department may issue a grant from the state technology advancement and retention account established by IC 4-12-12-1 to an employer (as defined in IC 22-8-1.1-1) in an amount determined by the department.

(b) A grant issued under this section is subject to approval by the budget agency.

(c) The department shall adopt rules to implement this section.

SECTION 26. IC 22-4.1-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 9. Smart Partnership Grants

Sec. 1. The department shall establish guidelines for making grants to the Indiana schools smart partnership, which is established to create partnerships between schools and local businesses to make the curricula of math and science relevant to students.

Sec. 2. The department may make grants from the state technology advancement and retention account established by IC 4-12-12-1 to coordinating organizations and participating schools.

Sec. 3. A grant issued under this chapter is subject to approval by the budget agency.

SECTION 27. [EFFECTIVE JULY 1, 2004] **(a) Notwithstanding IC 4-12-10, for the period beginning July 1, 2004, and ending June 30, 2005, grants of two hundred thousand dollars ($200,000) shall be made from money in the state technology advancement and retention account established in IC 4-12-12-1 that is dedicated to the Indiana economic development partnership fund to the:**

(1) East Central Indiana technology transfer program administered by Ball State University; and

(2) Southwestern Indiana technology transfer program administered by the University of Southern Indiana;

for their use in establishing and operating technology talent programs.

(b) This SECTION expires December 31, 2005.

SECTION 28. [EFFECTIVE JULY 1, 2004] **(a) As used in this SECTION, "department" refers to the department of workforce development.**

(b) Notwithstanding IC 22-4.1-7-7, as added by this act, the department, in consultation with the department of education, shall adopt rules to implement IC 22-4.1-7, as added by this act, in the same manner as emergency rules are adopted under IC 4-22-2-37.1. Any rules adopted under this SECTION must be adopted not later than September 1, 2004. A rule adopted under this SECTION expires on the earlier of:

(1) the date a rule is adopted by the department, in consultation with the department of education, under IC 4-22-2-24 through IC 4-22-2-36 to implement IC 22-4.1-7, as added by this act; or

(2) January 1, 2006.

(c) This SECTION expires December 31, 2007.

SECTION 29. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively

(Reference is to EHB 1434 as reprinted February 20, 2004.)

CRAWFORD	SERVER
THOMPSON	HOWARD
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT

ESB 194–1; filed March 3, 2004, at 5:02 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill 194 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert:

SECTION 1. IC 31-34-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2; ~~or~~

(I) IC 35-46-1-3; ~~and~~ **or**

(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I); and

(2) the child needs care, treatment, or rehabilitation that: ~~the child:~~

(A) **the child** is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court.

(b) A child is a child in need of services if, before the child becomes eighteen (18) years of age:

(1) the child lives in the same household as another child who is the victim of a sex offense under:

(A) IC 35-42-4-1;

(B) IC 35-42-4-2;

(C) IC 35-42-4-3;

(D) IC 35-42-4-4;

(E) IC 35-42-4-7;

(F) IC 35-42-4-9;

(G) IC 35-45-4-1;

(H) IC 35-45-4-2;

(I) IC 35-46-1-3; or

(J) the law of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in clauses (A) through (I);

(2) the child lives in the same household as the adult who committed the sex offense under subdivision (1) and the sex offense resulted in a conviction or a judgment under IC 31-34-11-2;

(3) the child needs care, treatment, or rehabilitation that:

(A) the child is not receiving; and

(B) is unlikely to be provided or accepted without the coercive intervention of the court; and

(4) a caseworker assigned to provide services to the child:

(A) places the child in a program of informal adjustment or other family or rehabilitative services based upon the existence of the circumstances described in subdivisions (1) and (2) and the assigned caseworker subsequently determines further intervention is necessary; or

(B) determines that a program of informal adjustment or other family or rehabilitative services is inappropriate.

SECTION 2. IC 31-34-12-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 4.5. (a) There is a rebuttable presumption that a child is a child in need of services if the state establishes that:**

(1) another child in the same household is the victim of a sex offense described in IC 31-34-1-3; and

(2) the sex offense described in IC 31-34-1-3:

(A) was committed by an adult who lives in the household with the child; and

(B) resulted in a conviction of the adult or a judgment under IC 31-34-11-2 as it relates to the child against whom the sex offense was committed.

(b) The following may not be used as grounds to rebut the presumption under subsection (a):

(1) The child who is the victim of the sex offense described in IC 31-34-1-3 is not genetically related to the adult who committed the act, but the child presumed to be the child in need of services under this section is genetically related to the adult who committed the act.

(2) The child who is the victim of the sex offense described in IC 31-34-1-3 differs in age from the child presumed to be

the child in need of services under this section.

(c) This section does not affect the ability to take a child into custody or emergency custody under IC 31-34-2 if the act of taking the child into custody or emergency custody is not based upon a presumption established under this section. However, if the presumption established under this section is the sole basis for taking a child into custody or emergency custody under IC 31-34-2, the court first must find cause to take the child into custody or emergency custody following a hearing in which the parent, guardian, or custodian of the child is accorded the rights described in IC 31-34-4-6(a)(2) through IC 31-34-4-6(a)(5).

(Reference is to ESB 194 as printed February 20, 2004.)

DILLON	ORENTLICHER
BRODEN	RUPPEL
Senate Conferees	House Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1266–1; filed March 3, 2004, at 5:44 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1266 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-13-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 17. Internet Purchasing Sites

Sec. 1. As used in this chapter, "department" refers to the Indiana department of administration established by IC 4-13-1-2.

Sec. 2. As used in this chapter, "Internet purchasing site" means an open and interactive electronic environment that is:

(1) designed to facilitate the purchase and sale of supplies conducted under IC 5-22;

(2) approved and managed by the department; and

(3) linked to the electronic gateway administered by the intelenet commission established by IC 5-21-2-1.

Sec. 3. As used in this chapter, "purchasing agency" has the meaning set forth in IC 5-22-2-25.

Sec. 4. The department may adopt rules under IC 4-22-2 to establish the following:

(1) Procedures for the use of Internet purchasing sites to facilitate the purchase of supplies or sales conducted under IC 5-22 by a state agency. The rules may permit use of an Internet purchasing site to facilitate purchases of supplies and sales conducted by any of the following if considered beneficial by the department:

(A) A purchasing agency other than a state agency.

(B) A cooperative purchasing organization described in IC 5-22-4-7.

(C) The public.

(2) User fees payable by either of the following:

(A) A bidder using an Internet purchasing site.

(B) Entities other than state agencies that use the Internet purchasing site permitted under subdivision (1).

(3) The technical requirements for operation of an Internet purchasing site.

(4) Procedures requiring the proper officers to maintain adequate documentation of transactions performed through the Internet purchasing site so that the officers may be audited as provided by law.

(5) Procedures necessary for the operation of Internet purchasing sites.

Sec. 5. An Internet purchasing site must do all the following:

(1) Provide an authorized user with the ability to issue an invitation for bids for supplies electronically.

(2) Protect the content of an electronic offer to the extent required under IC 5-22.

(3) Provide an authorized user with a secure, accurate report of all information contained in electronic offers made through the site on or before the deadline established by the authorized user.

(4) Comply with IC 5-22.

Sec. 6. The department shall provide the equipment and information technology services necessary to operate the Internet purchasing sites required under this chapter.

Sec. 7. The department shall provide authorized users and the public with access to Internet purchasing sites by links to the electronic gateway administered by the intelenet commission.

Sec. 8. The following shall cooperate with the department to implement this chapter:

(1) The intelenet commission.

(2) The state board of accounts.

(3) The attorney general.

(4) The auditor of state.

SECTION 2. IC 5-21-1-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. "Internet purchasing site" has the meaning set forth in IC 4-13-17-2.**

SECTION 3. IC 5-21-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. The commission shall design, develop, contract for, and manage statewide, integrated telecommunication networks and information technology services that economically, efficiently, and effectively meet the needs of authorized users. When technically possible and cost efficient, the system shall use facilities of the certificated local exchange telephone companies. The intelenet system may include the following:

(1) A statewide voice network.

(2) Voice connections into each county in the state.

(3) Interfacing with out-of-state voice facilities.

(4) Lines to connect computers and terminals.

(5) High speed data switching capacity.

(6) Data connections into each county in the state.

(7) A statewide broadcast network for video signals.

(8) Two-way video conferencing capacity.

(9) **Internet purchasing sites.**

(10) Other telecommunication and information technology services approved by the commission.

The commission shall provide the intelenet system and accessIndiana solely to carry out or to facilitate the carrying out of the essential public, educational, and governmental functions of authorized users.

SECTION 4. IC 5-22-2-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.5. "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks, including the graphical subnetwork called the world wide web.**

SECTION 5. IC 5-22-2-13.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 13.7. "Internet purchasing site" means an open and interactive electronic environment that is designed to facilitate the purchase of supplies by means of the Internet. The term includes an Internet purchasing site developed under IC 4-13-17.**

SECTION 6. IC 5-22-2-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 28.5. "Reverse auction" means a method of purchasing in which offerors submit offers in an open and interactive environment through the Internet.**

SECTION 7. IC 5-22-3-4, AS AMENDED BY P.L.1-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) Whenever this article requires that notice or other material be sent by mail, the material may be sent by electronic means as stated in any of the following:

(1) Rules adopted by the governmental body.

(2) Written policies of the purchasing agency.

(3) A solicitation.

(b) Rules, written policies, and solicitation statements described in subsection (a):

(1) are subject to this article; and

(2) must provide that the transmission of information is at least as efficient and secure as sending the material by mail.

(c) A governmental body may receive electronic offers if both of the following apply:

(1) The solicitation indicates the procedure for transmitting the electronic offer to the governmental body.

(2) The governmental body receives the offer on a fax machine, by electronic mail, or by means of another electronic system that has a security feature that protects the content of an electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means.

(d) A governmental body conducting a reverse auction must receive electronic offers for supplies through an Internet purchasing site.

SECTION 8. IC 5-22-7-5, AS AMENDED BY P.L.31-2002, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The purchasing agency shall give notice of the invitation for bids in the manner required by IC 5-3-1.

(b) The purchasing agency for a state agency shall also provide electronic access to the notice through the electronic gateway administered by the intelenet commission.

(c) The purchasing agency for a political subdivision may also provide electronic access to the notice through:

(1) the electronic gateway administered by the intelenet commission as determined by the commission; **or**

(2) any other electronic means available to the political subdivision.

SECTION 9. IC 5-22-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 7.5. Online Reverse Auctions

Sec. 1. (a) A purchasing agency may conduct a reverse auction for the purchase of supplies by using an Internet purchasing site to:

(1) issue an invitation for bids; and

(2) receive bids.

(b) Except as provided in this chapter, a purchasing agency and a bidder must comply with the requirements of this article when participating in a reverse auction.

Sec. 2. (a) Before conducting a reverse auction, the purchasing agency must adopt written policies that do the following:

(1) Establish procedures for all the following:

(A) Transmitting notices, solicitations, and specifications.

(B) Receiving offers.

(C) Making payments.

(D) Protecting:

(i) the identity of an offeror; and

(ii) the amount of an offer until the time fixed for the opening of offers.

(E) For a reverse auction, providing for the display of the amount of each offer previously submitted for public viewing.

(F) Establishing the deadline by which offers must be received and will be considered to be open and available for public inspection.

(G) Establishing the procedure for the opening of offers.

(2) Require the purchasing agency to maintain adequate documentation regarding reverse auctions so that the transactions may be audited as provided by law.

(b) Written policies that comply with rules for an Internet public purchasing site adopted by the Indiana department of administration under IC 4-13-17-4 satisfy the requirements of this section.

Sec. 3. If a purchasing agency issues an invitation for bids using a reverse auction conducted through an Internet purchasing site under this chapter, only bids made:

(1) in accordance with the policies described in section 2 of this chapter; and

(2) through the Internet purchasing site;

may be evaluated by the purchasing entity at the close of bidding.

Sec. 4. When used for a reverse auction, an Internet purchasing site must do the following:

(1) Provide information that the purchasing entity considers necessary or beneficial to potential bidders.

(2) Display the amount of all bids previously submitted regarding the reverse auction for public viewing.

(3) Conceal information that identifies a bidder.

(4) Comply with this article.

Sec. 5. The purchasing agency may charge a bidder in a reverse auction a fee set in the written policies adopted under section 2 of this chapter.

Sec. 6. For purposes of IC 5-22-7-6, a bid made through an Internet purchasing site is considered to be opened when a computer generated record of the information contained in all bids for a proposed purchase that were received by the site not later than the posted bid deadline is reviewed publicly by the purchasing agency in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids.

Sec. 7. IC 5-22-16-6(a)(2) does not apply to a reverse auction.

Sec. 8. (a) As used in this section, "construction equipment" means equipment used in construction work, the unit price of which is greater than ten thousand dollars ($10,000).

(b) A purchasing agency may not use a reverse auction to purchase construction equipment.

SECTION 10. [EFFECTIVE UPON PASSAGE] **(a) The definitions set forth in IC 4-13-17, as added by this act, apply throughout this SECTION.**

(b) Notwithstanding IC 4-13-17, as added by this act, the Indiana department of administration shall:

(1) carry out the duties imposed upon it under IC 4-13-17, as added by this act, under interim written guidelines approved by the department; and

(2) provide access to Internet purchasing sites for the purposes of IC 4-13-17, as added by this act, before January 1, 2005.

(c) This SECTION expires January 1, 2005.

SECTION 11. **An emergency is declared for this act.**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1266 as printed February 17, 2004.)

HASLER	RIEGSECKER
AYRES	BRODEN
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

The House recessed until the fall of the gavel.

RECESS

During the recess, a number of conference committee reports were filed.

CONFERENCE COMMITTEE REPORTS

CONFERENCE COMMITTEE REPORT

EHB 1207–1; filed March 3, 2004, at 5:49 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1207 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-1-8-1, AS AMENDED BY P.L.178-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) No individual may be compelled by any state agency, board, commission, department, bureau, or other entity of state government (referred to as "state agency" in this chapter) to provide the individual's Social Security number to the state agency against the individual's will, absent federal requirements to the contrary. However, the provisions of this chapter do not apply to the following:

(1) Department of state revenue.

(2) Department of workforce development.

(3) The programs administered by:

(A) the division of family and children;

(B) the division of mental health and addiction;

(C) the division of disability, aging, and rehabilitative services; and

(D) the office of Medicaid policy and planning;

of the office of the secretary of family and social services.

(4) Auditor of state.

(5) State personnel department.

(6) Secretary of state, with respect to the registration of broker-dealers, agents, and investment advisors.

(7) The legislative ethics commission, with respect to the registration of lobbyists.

(8) Indiana department of administration, with respect to bidders on contracts.

(9) Indiana department of transportation, with respect to bidders on contracts.

(10) Health professions bureau.

(11) Indiana professional licensing agency.

(12) Indiana department of insurance, with respect to licensing of insurance producers.

(13) A pension fund administered by the board of trustees of the public employees' retirement fund.

(14) The Indiana state teachers' retirement fund.

(15) The state police benefit system.

(16) The alcohol and tobacco commission.

(b) The bureau of motor vehicles may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in an application for an official certificate of title for any vehicle required to be titled under IC 9-17.

(2) That an individual include the individual's Social Security number on an application for registration.

(3) That a corporation, limited liability company, firm, partnership, or other business entity include its federal tax identification number on an application for registration.

(c) The Indiana department of administration, the Indiana department of transportation, the health professions bureau, and the Indiana professional licensing agency may require an employer to provide its federal employer identification number.

(d) The department of correction may require a committed offender to provide the offender's Social Security number for purposes of matching data with the Social Security Administration to determine benefit eligibility.

(e) The Indiana gaming commission may, notwithstanding this chapter, require the following:

(1) That an individual include the individual's Social Security number in any application for a riverboat owner's license, supplier's license, or occupational license.

(2) That a sole proprietorship, a partnership, an association, a fiduciary, a corporation, a limited liability company, or any other business entity include its federal tax identification number on an application for a riverboat owner's license or supplier's license.

(f) Notwithstanding this chapter, the professional standards board established by IC 20-1-1.4-2 may require an individual who applies to the board for a license or an endorsement to provide the individual's Social Security number. The Social Security number may be used by the board only for conducting a background investigation, if the board is authorized by statute to conduct a background investigation of an individual for issuance of the license or endorsement.

SECTION 2. IC 6-1.1-12.1-3, AS AMENDED BY P.L.90-2002, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the proposed redevelopment or rehabilitation.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the redevelopment or rehabilitation and an estimate of the annual salaries of these individuals.

(3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the designating body, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(b) The designating body must review the statement of benefits required under subsection (a). The designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

(2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years. For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled to a deduction if:

(1) the property has been rehabilitated; or

(2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about the number of years the deduction is allowed

that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

(1) Private or commercial golf course.
(2) Country club.
(3) Massage parlor.
(4) Tennis club.
(5) Skating facility (including roller skating, skateboarding, or ice skating).
(6) Racquet sport facility (including any handball or racquetball court).
(7) Hot tub facility.
(8) Suntan facility.
(9) Racetrack.
(10) Any facility the primary purpose of which is:
(A) retail food and beverage service;
(B) automobile sales or service; or
(C) other retail;
unless the facility is located in an economic development target area established under section 7 of this chapter.
(11) Residential, unless:
(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;
(B) the facility is located in an economic development target area established under section 7 of this chapter; or
(C) the area is designated as a residentially distressed area.
(12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:
(A) was eligible for tax abatement under this chapter before July 1, 1995; ~~or~~
(B) is described in IC 7.1-5-7-11; **or**
(C) operates a facility under:
(i) a beer wholesaler's permit under IC 7.1-3-3;
(ii) a liquor wholesaler's permit under IC 7.1-3-8; or
(iii) a wine wholesaler's permit under IC 7.1-3-13;
for which the applicant claims a deduction under this chapter.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination of the following:

(1) Elderly persons who are predominately low-income or moderate-income persons.
(2) Disabled persons.

A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

SECTION 3. IC 7.1-2-3-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16.5. (a) As used in this section, "facility" includes the following:

(1) A facility to which IC 7.1-3-1-25(a) applies.
(2) A tract that contains a premises that is described in ~~IC 7.1-3-1-14(c)(2).~~ **IC 7.1-3-1-14(c)(2).**
(3) A horse track or satellite facility to which IC 7.1-3-17.7 applies.
(4) A tract that contains an entertainment complex.

(b) As used in this section, "tract" has the meaning set forth in IC 6-1.1-1-22.5.

(c) A facility may advertise alcoholic beverages:

(1) in the facility's interior; or
(2) on the facility's exterior.

(d) The commission may not exercise the prohibition power contained in section 16(a) of this chapter on advertising by a brewer, distiller, rectifier, or vintner in or on a facility.

(e) Notwithstanding IC 7.1-5-5-10 and IC 7.1-5-5-11, a facility may provide advertising to a permittee that is a brewer, distiller, rectifier, or vintner in exchange for compensation from that permittee.

SECTION 4. IC 7.1-3-1-14, AS AMENDED BY P.L.136-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a supplemental retailer's permit ~~which is not specified in subsection (c)~~ to sell the appropriate alcoholic beverages on Sunday from ~~noon,~~ **10 a.m.,** prevailing local time, until 12:30 a.m., prevailing local time, the following day.

~~(c) It is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday from 11:00 a.m., prevailing local time, until 12:30 a.m., prevailing local time, the following day if the holder of the permit meets the following criteria:~~
~~(1) the holder of the permit is a hotel; or~~
~~(2) the holder of the permit meets the requirements of 905 IAC 1-41-2(a).~~

~~(d) Notwithstanding subsections (b) and (c), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a supplemental retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31 from the time provided in subsection (b) or (c) until 3 a.m. the following day.~~

~~(c)~~ **(c)** It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

(1) are described in section 25(a) of this chapter;
(2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or
(3) are being used for a professional or an amateur tournament;

beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

~~(f)~~ **(d)** It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 5. IC 7.1-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a) Except as provided in subsection (b),** the commission may issue a brewer's permit only to:

(1) an individual;
(2) a partnership, all the partners of which are bona fide residents of ~~this state;~~ **Indiana;**
(3) a limited liability company, all the members of which are bona fide residents of ~~this state;~~ **Indiana;** or
(4) a corporation organized and existing under the laws of ~~this state~~ **Indiana** and having authority under its charter to manufacture or sell beer.

(b) The commission may issue a brewer's permit to a brewer for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year to:

(1) an individual;
(2) a partnership organized and existing under the laws of Indiana;
(3) a limited liability company organized and existing under the laws of Indiana; or
(4) a corporation organized and existing under the laws of Indiana.

SECTION 6. IC 7.1-3-2-7, AS AMENDED BY P.L.177-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply

permit or an out-of-state brewer's permit may do the following:

(1) Manufacture beer.

(2) Place beer in containers or bottles.

(3) Transport beer.

(4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.

(5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:

(A) Sell and deliver beer to a person holding a retailer or a dealer permit under this title.

(B) Be the proprietor of a restaurant.

(C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).

(D) Transfer beer directly from the brewery to the restaurant by means of:

(i) bulk containers; or

(ii) a continuous flow system.

(E) Install a window between the brewery and an adjacent restaurant that allows the public and the permittee to view both premises.

(F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.

(G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must furnish the minimum food requirements prescribed by the commission.

(6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

(A) is located in the same county as the brewer's brewery;

(B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and

(C) is the proprietor of a restaurant that operates under subdivision (5).

(7) Sell and deliver beer to a consumer at the plant of the brewer or at the residence of the consumer. The delivery to a consumer shall be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.

(8) Provide complimentary samples of beer that are:

(A) produced by the brewer; and

(B) offered to consumers for consumption on the brewer's premises.

(9) Own a portion of the corporate stock of a sports corporation that:

(A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and

(B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

(10) For beer described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the beer on the licensed premises; and

(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 7. IC 7.1-3-9-11, AS ADDED BY P.L.12-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) A liquor retailer may allow customers to sample the following:

(1) **Beer.**

(2) Wines.

~~(2)~~ **(3)** Liquors.

~~(3)~~ **(4)** Liqueurs and cordials (as defined in 27 CFR 5.22(h)).

(b) Sampling is permitted only:

(1) on the liquor retailer's permit premises; and

(2) during the permittee's regular business hours.

(c) A liquor retailer may not charge for the samples provided to customers.

(d) Sample size of wines may not exceed one (1) ounce.

(e) In addition to the other provisions of this section, a liquor retailer who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:

(1) A liquor retailer may allow a customer to sample only a combined total of two (2) liquor, liqueur, or cordial samples per day.

(2) Sample size of liqueurs or cordials may not exceed one-half (1/2) ounce.

(3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

(f) A sample size of beer may not exceed six (6) ounces.

SECTION 8. IC 7.1-3-9-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 12. (a) This section applies to:**

(1) the holder of a three-way permit that is issued to a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center; or

(2) the holder of a catering permit while catering alcoholic beverages at a civic center, a sports arena, a stadium, an exhibition hall, an auditorium, a theater, a tract that contains a premises that is described in IC 7.1-3-1-14(c)(2), or a convention center.

(b) As used in this section, "suite" means an area in a building or facility referred to in subsection (a) that:

(1) is not accessible to the general public;

(2) has accommodations for not more than seventy-five (75) persons per suite; and

(3) is accessible only to persons who possess a ticket:

(A) to an event in a building or facility referred to in subsection (a); and

(B) that entitles the person to occupy the area while viewing the event described in clause (A).

The term does not include a restaurant, lounge, or concession area, even if access to the restaurant, lounge, or concession area is limited to certain ticket holders.

(c) A permittee may allow the self-service of individual servings of alcoholic beverages in a suite.

(d) A person who:

(1) possesses a ticket described in subsection (b)(3); and

(2) is at least twenty-one (21) years of age;

may obtain an alcoholic beverage in a suite by self-service.

(e) A permittee may do any of the following:

(1) Demand that a person occupying a suite provide:

(A) a written statement under IC 7.1-5-7-4; and

(B) identification indicating that the person is at least twenty-one (21) years of age.

(2) Supervise the self-service of alcoholic beverages.

(3) Have an employee in the suite who holds an employee permit under IC 7.1-3-18-9 to serve some or all of the alcoholic beverages.

SECTION 9. IC 7.1-3-10-13, AS AMENDED BY P.L.12-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) A liquor dealer permittee who is a proprietor of a package liquor store may allow customers to sample the following:

(1) **Beer.**

(2) Wines.

~~(2)~~ **(3)** Liquors.

~~(3)~~ **(4)** Liqueurs and cordials (as defined in 27 CFR 5.22(h)).

(b) Sampling is permitted:

(1) only on the package liquor store permit premises; and

(2) only during the store's regular business hours.

(c) No charge may be made for the samples provided to the customers.

(d) Sample size of wines may not exceed one (1) ounce.

(e) In addition to the other provisions of this section, a proprietor who allows customers to sample liquors, liqueurs, or cordials shall comply with all of the following:

(1) A proprietor may allow a customer to sample not more than a combined total of two (2) liquor, liqueur, or cordial samples per day.

(2) Sample size of liqueurs or cordials may not exceed one-half

(1/2) ounce.

(3) Sample size of liquors may not exceed four-tenths (0.4) ounce.

(f) Sample size of beer may not exceed six (6) ounces.

SECTION 10. IC 7.1-3-17.5-6, AS ADDED BY P.L.250-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. Notwithstanding IC 7.1-5-5-7, the holder of an excursion and adjacent landsite permit may, subject to the approval of the commission, provide alcoholic beverages to guests without charge at an event on the licensed premises if all the following requirements are met:

(1) The event is attended by not more than ~~five hundred (500)~~ **six hundred fifty (650)** guests.

(2) The event is not more than ~~three (3)~~ **six (6)** hours in duration.

(3) Each alcoholic beverage dispensed to a guest:

(A) is entered into a cash register that records and itemizes on the cash register tape each alcoholic beverage dispensed; and

(B) is entered into a cash register as a sale and at the same price that is charged to the general public.

(4) At the conclusion of the event, all alcoholic beverages recorded on the cash register tape are paid by the holder of the excursion and adjacent landsite permit.

(5) All records of the alcoholic beverage sales, including the cash register tape, shall be maintained by the holder of the excursion and adjacent landsite permit for not less than two (2) years.

(6) The holder of the excursion and adjacent landsite permit complies with the rules of the commission.

SECTION 11. IC 7.1-3-20-16.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16.1. (a) This section applies to a municipal riverfront development project authorized under section 16(d) of this chapter.**

(b) In order to qualify for a permit, an applicant must demonstrate that the municipal riverfront development project area where the permit is to be located meets the following criteria:

(1) The project boundaries must border on at least one (1) side of a river.

(2) The proposed permit premises may not be located more than:

(A) one thousand five hundred (1,500) feet; or

(B) three (3) city blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit premises are located within:

(A) an economic development area, a blighted area, an urban renewal area, or a redevelopment area established under IC 36-7-14, IC 36-7-14.5, or IC 36-7-15.1; or

(B) an economic development project district under IC 36-7-15.2 or IC 36-7-26.

(4) The project must be funded in part with state and city money.

(5) The boundaries of the municipal riverfront development project must be designated by ordinance or resolution by the legislative body (as defined in IC 36-1-2-9(3) or IC 36-1-2-9(4)) of the city in which the project is located.

(c) Proof of compliance with subsection (b) must consist of the following documentation, which is required at the time the permit application is filed with the commission:

(1) A detailed map showing:

(A) definite boundaries of the entire municipal riverfront development project; and

(B) the location of the proposed permit within the project.

(2) A copy of the local ordinance or resolution of the local governing body authorizing the municipal riverfront development project.

(3) Detailed information concerning the expenditures of state and city funds on the municipal riverfront development project.

(d) Notwithstanding subsection (b), the commission may issue a permit for premises, the location of which does not meet the criteria of subsection (b)(2), if all the following requirements are met:

(1) All other requirements of this section and section 16(d) of this chapter are satisfied.

(2) The proposed premises is located not more than:

(A) three thousand (3,000) feet; or

(B) six (6) blocks;

from the river, whichever is greater. However, if the area adjacent to the river is incapable of being developed because the area is in a floodplain, or for any other reason that prevents the area from being developed, the distances described in clauses (A) and (B) are measured from the city blocks located nearest to the river that are capable of being developed.

(3) The permit applicant satisfies the criteria established by the commission by rule adopted under IC 4-22-2. The criteria established by the commission may require that the proposed premises be located in an area or district set forth in subsection (b)(3).

(4) The permit premises may not be located less than two hundred (200) feet from facilities owned by a state educational institution (as defined in IC 20-12-0.5-1).

(e) A permit may not be issued if the proposed permit premises is the location of an existing three-way permit subject to IC 7.1-3-22-3.

SECTION 12. IC 7.1-3-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. ~~Residency Requirements.~~ **(a)** The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's,~~ retailer's or dealer's permit of any type; **or**

(2) a wine wholesaler's or liquor wholesaler's permit;

to a person who has not been a continuous and bona fide resident of ~~this state~~ **Indiana** for five (5) years immediately preceding the date of the application for a permit.

(b) The commission shall not issue a beer wholesaler's permit to a person who has not been a continuous and bona fide resident of Indiana for one (1) year.

SECTION 13. IC 7.1-3-21-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Corporations.~~ The commission shall not issue:

(1) an alcoholic beverage ~~wholesaler's,~~ retailer's or dealer's permit of any type; **or**

(2) a wine wholesaler's or liquor wholesaler's permit;

to a corporation unless sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of ~~this state~~ **Indiana** for five (5) years.

(b) The commission shall not issue a beer wholesaler's permit to a corporation unless at least sixty percent (60%) of the outstanding common stock is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.

(c) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a corporation unless at least one (1) of the stockholders shall have been a resident, for at least one (1) year immediately prior to making application for the permit, of the county in which the licensed premises are to be situated.

~~(c)~~ **(d)** Each officer and stockholder of a corporation shall possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 14. IC 7.1-3-21-5.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.2. (a) The commission shall not issue:

(1) an alcoholic beverage ~~wholesalers, retailers~~ **retailer's** or ~~dealers~~ **dealer's** permit of any type; **or**

(2) a wine wholesaler's or liquor wholesaler's permit;

to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous

and bona fide residents of Indiana for five (5) years.

(b) **The commission shall not issue a beer wholesaler's permit to a limited partnership unless at least sixty percent (60%) of the partnership interest is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.**

(c) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a limited partnership unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a partnership interest has been a resident of the county in which the licensed premises are to be situated.

~~(c)~~ **(d)** Each general partner and limited partner of a limited partnership must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 15. IC 7.1-3-21-5.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.4. (a) The commission shall not issue:

(1) an alcoholic beverage ~~wholesalers, retailers~~ **retailer's** or ~~dealers~~ **dealer's** permit of any type; **or**

(2) a wine wholesaler's or liquor wholesaler's permit;

to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for five (5) years.

(b) **The commission shall not issue a beer wholesaler's permit to a limited liability company unless at least sixty percent (60%) of the membership interest is owned by persons who have been continuous and bona fide residents of Indiana for one (1) year.**

(c) The commission shall not issue ~~an alcoholic beverage~~ **a liquor** wholesaler's permit ~~of any type~~ to a limited liability company unless for at least one (1) year immediately before making application for the permit, at least one (1) of the persons having a membership interest has been a resident of the county in which the licensed premises are to be situated.

~~(c)~~ **(d)** Each manager and member of a limited liability company must possess all other qualifications required of an individual applicant for that particular type of permit.

SECTION 16. IC 7.1-5-7-11, AS AMENDED BY P.L.117-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

(1) Civic center.
(2) Convention center.
(3) Sports arena.
(4) Bowling center.
(5) Bona fide club.
(6) Drug store.
(7) Grocery store.
(8) Boat.
(9) Dining car.
(10) Pullman car.
(11) Club car.
(12) Passenger airplane.
(13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.
(14) Satellite facility (as defined in IC 4-31-2-20.5).
(15) Catering hall under IC 7.1-3-20-24 that is not open to the public.
(16) That part of a hotel or restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.
(17) Entertainment complex.
(18) Indoor golf facility.
(19) A recreational facility such as a golf course, bowling center, or similar facility to which IC 7.1-3-16.5-2(c) applies.
(20) A licensed premises owned or operated by an educational institution of higher learning (as defined in IC 20-12-15-1).
(21) An automobile racetrack.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

(1) The minor is eighteen (18) years of age or older.
(2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.
(3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages.

SECTION 17. IC 7.1-5-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. ~~Retailer Owning Interest in Another Permit Prohibited.~~ **(a) Except as provided in subsection (b),** it is unlawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a manufacturer's or wholesaler's permit of any type.

(b) It is lawful for a holder of a retailer's permit of any type to acquire, hold, own, or possess an interest of any type in a brewer's permit for a brewery that manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year.

SECTION 18. IC 7.1-5-9-5 IS REPEALED [EFFECTIVE JULY 1, 2004].

SECTION 19. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-12.1-3, as amended by this act, applies to property taxes first due and payable after December 31, 2004.**

SECTION 20. [EFFECTIVE JULY 1, 2004] **IC 7.1-3-20-16.1, as added by this act, applies to an application for a permit received after June 30, 2004.**

SECTION 21. [EFFECTIVE JULY 1, 2004] **Notwithstanding IC 7.1-3-21-3, IC 7.1-3-21-5, IC 7.1-3-21-5.2, and IC 7.1-3-21-5.4, all as amended by this act, the residency requirement of five (5) years for beer wholesalers under IC 7.1-3-21-3, IC 7.1-3-21-5, IC 7.1-3-21-5.2, and IC 7.1-3-21-5.4 (as those provisions existed on June 30, 2004) shall remain in effect for all contracts entered into before July 1, 2004, under which a permit is to be transferred from an Indiana resident to a person who was not an Indiana resident at the time of execution of the contract.**

SECTION 22. **An emergency is declared for this act.**

(Reference is to EHB 1207 as reprinted February 26, 2004.)

KUZMAN	SERVER
WHETSTONE	BRODEN
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1264–1; filed March 3, 2004, at 5:54 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1264 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-14-3-7, AS AMENDED BY P.L.112-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) The bureau shall maintain an operating record for each person licensed by the bureau to drive a motor vehicle.

(b) An operating record must contain the following:

(1) A person's convictions for any of the following:
(A) A moving traffic violation.
(B) Operating a vehicle without financial responsibility in violation of IC 9-25.
(2) Any administrative penalty imposed by the bureau.
(3) If the driving privileges of a person have been suspended or revoked by the bureau, an entry in the record stating that a notice of suspension or revocation was mailed by the bureau and the date of the mailing of the notice.
(4) Any suspensions, revocations, or reinstatements of a person's driving privileges, license, or permit.
(5) Any requirement that the person may operate only a motor vehicle equipped with an certified ignition interlock device.

(c) An entry in the operating record of a defendant stating that notice of suspension or revocation was mailed by the bureau to the defendant constitutes prima facie evidence that the notice was mailed to the defendant's address as shown in the official driving record.

(d) An operating record maintained under this section:

(1) is not admissible as evidence in any action for damages arising out of a motor vehicle accident; and

(2) may not include voter registration information.

SECTION 2. IC 9-24-15-6.5, AS AMENDED BY P.L.215-2001, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.5. (a) The court shall grant a petition for a restricted driving permit filed under this chapter if all of the following conditions exist:

(1) The person was not convicted of one (1) or more of the following:

(A) A Class D felony under IC 9-30-5-4 before July 1, 1996, or a Class D felony or a Class C felony under IC 9-30-5-4 after June 30, 1996.

(B) A Class C felony under IC 9-30-5-5 before July 1, 1996, or a Class C felony or a Class B felony under IC 9-30-5-5 after June 30, 1996.

(2) The person's driving privileges were suspended under IC 9-30-6-9(b) or IC 35-48-4-15.

(3) The driving that was the basis of the suspension was not in connection with the person's work.

(4) The person does not have a previous conviction for operating while intoxicated.

(5) The person is participating in a rehabilitation program certified by either the division of mental health and addiction or the Indiana judicial center as a condition of the person's probation.

(b) The person filing the petition for a restricted driving permit shall include in the petition the information specified in subsection (a) in addition to the information required by sections 3 through 4 of this chapter.

(c) Whenever the court grants a person restricted driving privileges under this chapter, that part of the court's order granting probationary driving privileges shall not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9. **In a county that provides for the installation of an ignition interlock device under IC 9-30-8, installation of an ignition interlock device is required as a condition of probationary driving privileges for the entire duration of the probationary driving privileges.**

(d) If a court requires installation of a certified ignition interlock device under subsection (c), the court shall order the bureau to record this requirement in the person's operating record in accordance with IC 9-14-3-7. When the person is no longer required to operate only a motor vehicle equipped with an ignition interlock device, the court shall notify the bureau that the ignition interlock use requirement has expired and order the bureau to update its records accordingly.

SECTION 3. IC 9-30-5-4, AS AMENDED BY P.L.175-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A person who causes serious bodily injury to another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body; or

(3) while intoxicated;

commits a Class D felony. However, the offense is a Class C felony if **the person has a previous conviction of operating while intoxicated** within the five (5) years preceding the commission of the offense. ~~the person had a prior unrelated conviction under this chapter.~~

(b) A person who violates subsection (a) commits a separate offense for each person whose serious bodily injury is caused by the violation of subsection (a).

(c) It is a defense under subsection (a)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 4. IC 9-30-5-5, AS AMENDED BY HEA 1394-2004, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol ~~but less than fifteen-hundredths (0.15) gram of alcohol~~ per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or

(3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if **the person has a previous conviction of operating while intoxicated** within the five (5) years preceding the commission of the offense, ~~the person had a prior unrelated conviction under this chapter,~~ or if the person ~~knowingly~~ operated the motor vehicle ~~with a~~ **when the person knew that the person's** driver's license, ~~that was~~ **driving privilege, or permit is** suspended or revoked for a previous conviction for operating a vehicle while intoxicated. ~~under IC 9-30-5.~~

(b) A person at least twenty-one (21) years of age who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

(2) with a controlled substance listed in schedule I or II of IC 35-48-4 or its metabolite in the person's blood;

commits a Class B felony.

(c) A person who violates subsection (a) or (b) commits a separate offense for each person whose death is caused by the violation of subsection (a) or (b).

(d) It is a defense under subsection (a)(2) or subsection (b)(2) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 5. IC 9-30-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) A person who **knowingly or intentionally** tampers with an ignition interlock device for the purpose of:

(1) circumventing the ignition interlock device; or

(2) rendering the ignition interlock device inaccurate or inoperative;

commits a Class B ~~infraction.~~ **misdemeanor.**

(b) A person who solicits another person to:

(1) blow into an ignition interlock device; or

(2) start a motor vehicle equipped with an ignition interlock device;

for the purpose of providing an operable vehicle to a person who is restricted to driving a vehicle with the ignition interlock device commits a Class C infraction.

SECTION 6. IC 9-30-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section.

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or

(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10)

years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. ~~If the court grants probationary driving privileges under this subsection, the court may order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.~~

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. ~~If the court grants probationary driving privileges under this subsection, the court may order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.~~

(e) If the conviction under consideration by the court is for an offense under:

(1) section 4 of this chapter;

(2) section 5 of this chapter;

(3) IC 14-15-8-8(b); or

(4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, **in which a vehicle was used in the offense,** the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

SECTION 7. IC 9-30-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) An order for probationary driving privileges granted under ~~section 12 of~~ this chapter must include the following:

(1) A requirement that the person may not violate a traffic law.

(2) A restriction of a person's driving privileges providing for automatic execution of the suspension of driving privileges if an order is issued under subsection (b).

(3) A written finding by the court that the court has reviewed the person's driving record and other relevant evidence and found that the person qualifies for a probationary license under ~~section 12 of~~ this chapter.

(4) Other reasonable terms of probation.

(b) If the court finds that the person has violated the terms of the order granting probationary driving privileges, the court shall order execution of that part of the sentence concerning the suspension of the person's driving privileges.

SECTION 8. IC 9-30-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 16. (a) Except as provided in ~~subsection~~ **subsections** (b) **and (c),** the court may, in granting probationary driving privileges under this chapter, also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(b) **An order granting probationary driving privileges:**

(1) under:

(A) section 12(a) of this chapter, if the person has a previous conviction that occurred at least ten (10) years before the conviction under consideration by the court; or

(B) section 12(c) of this chapter; or

(2) to a person who has a prior unrelated conviction for an offense under this chapter of which the consumption of alcohol is an element;

must prohibit the person from operating a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, a court is not required to order the installation of an ignition interlock device for a person described in subdivision (1) or (2) if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse.

(c) A court may not order the installation of an ignition interlock device on a vehicle operated by an employee to whom any of the following apply:

(1) Has been convicted of violating ~~IC 9-30-5-1 or IC 9-30-5-2.~~ **section 1 or 2 of this chapter.**

(2) Is employed as the operator of a vehicle owned, leased, or provided by the employee's employer.

(3) Is subject to a labor agreement that prohibits an employee who is convicted of an alcohol related offense from operating the employer's vehicle.

SECTION 9. IC 9-30-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) Whenever a judicial officer has determined that there was probable cause to believe that a person has violated IC 9-30-5 or IC 14-15-8, the clerk of the court shall forward:

(1) a copy of the affidavit; and

(2) a bureau certificate as described in section 16 of this chapter;

to the bureau.

(b) The probable cause affidavit required under section 7(b)(2) of this chapter must do the following:

(1) Set forth the grounds for the arresting officer's belief that there was probable cause that the arrested person was operating a vehicle in violation of IC 9-30-5 or a motorboat in violation of IC 14-15-8.

(2) State that the person was arrested for a violation of IC 9-30-5 or operating a motorboat in violation of IC 14-15-8.

(3) State whether the person:

(A) refused to submit to a chemical test when offered; or

(B) submitted to a chemical test that resulted in prima facie evidence that the person was intoxicated.

(4) Be sworn to by the arresting officer.

(c) **Except as provided in subsection (d),** if it is determined under subsection (a) that there was probable cause to believe that a person has violated IC 9-30-5 or IC 14-15-8, at the initial hearing of the matter held under IC 35-33-7-1:

(1) the court shall recommend immediate suspension of the person's driving privileges to take effect on the date the order is entered;

(2) the court shall order the person to surrender all driver's licenses, permits, and receipts; and

(3) the clerk shall forward the following to the bureau:

(A) The person's license or permit surrendered under this section or section 3 or 7 of this chapter.

(B) A copy of the order recommending immediate suspension of driving privileges.

(d) If it is determined under subsection (a) that there is probable cause to believe that a person violated IC 9-30-5, the court may, as an alternative to a license suspension under subsection (c)(1), issue an order recommending that the person be prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8 until the bureau is notified by a court that the criminal charges against the person have been resolved.

SECTION 10. IC 9-30-6-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 8.5. (a) If the bureau receives an order recommending use of an ignition interlock device under section 8(d) of this chapter, the bureau shall immediately do the following:**

(1) Mail a notice to the person's last known address stating that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8 commencing:

(A) five (5) days after the date of the notice; or

(B) on the date the court enters an order recommending use of an ignition interlock device;

whichever occurs first.

(2) Notify the person of the right to a judicial review under section 10 of this chapter.

(b) Notwithstanding IC 4-21.5, an action that the bureau is required to take under this section is not subject to any administrative adjudication under IC 4-21.5.

SECTION 11. IC 9-30-6-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 8.7. (a) A person commits a Class B infraction if the person:**

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 8(d) of this chapter.

(b) A person commits a Class B misdemeanor if the person:

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 8(d) of this chapter.

SECTION 12. IC 9-30-6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) **This section does not apply if an ignition interlock device order is issued under section 8(d) of this chapter.**

(b) If the affidavit under section 8(b) of this chapter states that a person refused to submit to a chemical test, the bureau shall suspend the driving privileges of the person:

(1) for one (1) year; or

(2) until the suspension is ordered terminated under IC 9-30-5.

~~(b)~~ **(c)** If the affidavit under section 8(b) of this chapter states that a chemical test resulted in prima facie evidence that a person was intoxicated, the bureau shall suspend the driving privileges of the person:

(1) for one hundred eighty (180) days; or

(2) until the bureau is notified by a court that the charges have been disposed of;

whichever occurs first.

~~(c)~~ **(d)** Whenever the bureau is required to suspend a person's driving privileges under this section, the bureau shall immediately do the following:

(1) Mail a notice to the person's last known address that must state that the person's driving privileges will be suspended for a specified period, commencing:

(A) five (5) days after the date of the notice; or

(B) on the date the court enters an order recommending suspension of the person's driving privileges under section 8(c) of this chapter;

whichever occurs first.

(2) Notify the person of the right to a judicial review under section 10 of this chapter.

~~(d)~~ **(e)** Notwithstanding IC 4-21.5, an action that the bureau is required to take under this article is not subject to any administrative adjudication under IC 4-21.5.

~~(e)~~ **(f)** If a person is granted probationary driving privileges under IC 9-30-5 and the bureau has not received the probable cause affidavit described in section 8(b) of this chapter, the bureau shall suspend the person's driving privileges for a period of thirty (30) days. After the thirty (30) day period has elapsed, the bureau shall, upon receiving a reinstatement fee from the person who was granted probationary driving privileges, issue the probationary license if the person otherwise qualifies for a license.

~~(f)~~ **(g)** If the bureau receives an order granting probationary driving privileges to a person who has a prior conviction for operating while intoxicated, the bureau shall do the following:

(1) Issue the person a probationary license and notify the prosecuting attorney of the county from which the order was received that the person is not eligible for a probationary license.

(2) Send a certified copy of the person's driving record to the prosecuting attorney.

The prosecuting attorney shall, in accordance with IC 35-38-1-15, petition the court to correct the court's order. If the bureau does not receive a corrected order within sixty (60) days, the bureau shall notify the attorney general, who shall, in accordance with IC 35-38-1-15, petition the court to correct the court's order.

SECTION 13. IC 9-30-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 10. (a) A person **against whom an ignition interlock device order has been issued under section 8.5 of this chapter or** whose driving privileges have been suspended under section 9 of this chapter is entitled to a prompt judicial hearing. The person may file a petition that requests a hearing:

(1) in the court where the charges with respect to the person's operation of a vehicle are pending; or

(2) if charges with respect to the person's operation of a vehicle have not been filed, in any court of the county where the alleged offense or refusal occurred that has jurisdiction over crimes committed in violation of IC 9-30-5.

(b) The petition for review must:

(1) be in writing;

(2) be verified by the person seeking review; and

(3) allege specific facts that contradict the facts alleged in the probable cause affidavit.

(c) The hearing under this section shall be limited to the following issues:

(1) Whether the arresting law enforcement officer had probable cause to believe that the person was operating a vehicle in violation of IC 9-30-5.

(2) Whether the person refused to submit to a chemical test offered by a law enforcement officer.

(d) If the court finds:

(1) that there was no probable cause; or

(2) that the person's driving privileges were suspended under section 9(a) of this chapter and that the person did not refuse to submit to a chemical test;

the court shall order the bureau to **rescind the ignition interlock device requirement or** reinstate the person's driving privileges.

(e) The prosecuting attorney of the county in which a petition has been filed under this chapter shall represent the state on relation of the bureau with respect to the petition.

(f) The petitioner has the burden of proof by a preponderance of the evidence.

(g) The court's order is a final judgment appealable in the manner of civil actions by either party. The attorney general shall represent the state on relation of the bureau with respect to the appeal.

SECTION 14. IC 9-30-6-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. (a) Notwithstanding any other provision of this chapter, IC 9-30-5, or IC 9-30-9, the court shall order the bureau to **rescind an ignition interlock device requirement or** reinstate the driving privileges of a person if:

(1) all of the charges under IC 9-30-5 have been dismissed and the prosecuting attorney states on the record that no charges will be refiled against the person;

(2) the court finds the allegations in a petition filed by a defendant under section 18 of this chapter are true; or

(3) the person:

(A) did not refuse to submit to a chemical test offered as a result of a law enforcement officer having probable cause to believe the person committed the offense charged; and

(B) has been found not guilty of all charges by a court or by a jury.

(b) The court's order must contain findings of fact establishing that the requirements for reinstatement described in subsection (a) have been met.

(c) A person whose driving privileges are reinstated under this section is not required to pay a reinstatement fee.

SECTION 15. IC 9-30-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. If a court orders the bureau to **rescind an ignition interlock device requirement or** reinstate a person's driving privileges under this article, the bureau

shall comply with the order. Unless the order for reinstatement is issued under section 11(2) of this chapter, the bureau shall also do the following:

(1) Remove any record of the **ignition interlock device requirement or** suspension from the bureau's recordkeeping system.

(2) Reinstate the privileges without cost to the person.

SECTION 16. IC 9-30-6-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) A person **against whom an ignition interlock device order has been issued under section 8.5 of this chapter or** whose driving privileges have been suspended under section 9(b) of this chapter is entitled to **rescission of the ignition interlock device requirement or** reinstatement of driving privileges if the following occur:

(1) After a request for an early trial is made by the person at the initial hearing on the charges, a trial or other disposition of the charges for which the person was arrested under IC 9-30-5 is not held within ninety (90) days after the date of the person's initial hearing on the charges.

(2) The delay in trial or disposition of the charges is not due to the person arrested under IC 9-30-5.

(b) A person who desires **rescission of the ignition interlock device requirement or** reinstatement of driving privileges under this section must file a verified petition in the court where the charges against the petitioner are pending. The petition must allege the following:

(1) The date of the petitioner's arrest under IC 9-30-5.

(2) The date of the petitioner's initial hearing on the charges filed against the petitioner under IC 9-30-5.

(3) The date set for trial or other disposition of the matter.

(4) A statement averring the following:

(A) That the petitioner requested an early trial of the matter at the petitioner's initial hearing on the charges filed against the petitioner under IC 9-30-5.

(B) The trial or disposition date set by the court is at least ninety (90) days after the date of the petitioner's initial hearing on the charges filed against the petitioner under IC 9-30-5.

(C) The delay in the trial or disposition is not due to the petitioner.

(c) Upon the filing of a petition under this section, the court shall immediately examine the record of the court to determine whether the allegations in the petition are true.

(d) If the court finds the allegations of a petition filed under this section are true, the court shall order **rescission of the ignition interlock device requirement or** reinstatement of the petitioner's driving privileges under section 11 of this chapter. The reinstatement must not take effect until ninety (90) days after the date of the petitioner's initial hearing.

SECTION 17. IC 9-30-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. If a court orders the installation of a certified ignition interlock device under ~~IC 9-30-5-16~~ **IC 9-30-5** on a motor vehicle that a person whose license is restricted owns or expects to operate, the court shall set the time that the installation must remain in effect. However, the term may not exceed the maximum term of imprisonment the court could have imposed. The person shall pay the cost of installation.

SECTION 18. IC 9-30-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) If the court enters an order conditionally deferring charges under section 3 of this chapter, the court may do the following:

(1) Suspend the person's driving privileges for at least two (2) years but not more than four (4) years.

(2) Impose other appropriate conditions, including the payment of fees imposed under section 8 of this chapter.

(b) Notwithstanding IC 9-30-6-9, the defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least one (1) year.

(c)The court may, as an alternative to a license suspension under subsection (a)(1), issue an order prohibiting the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. An order requiring an ignition interlock device must remain in effect for at least two (2) years but not more than four (4) years.

SECTION 19. IC 9-30-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) If the court refers a defendant to the program under section 6 of this chapter, the court may do the following:

(1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than four (4) years.

(2) Impose other appropriate conditions.

(b) The defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9.

(c) The court may, as an alternative to a license suspension under subsection (a)(1), issue an order prohibiting the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. An order requiring an ignition interlock device must remain in effect for at least two (2) years but not more than four (4) years.

SECTION 20. IC 9-30-9-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 7.5. (a) A person commits a Class B infraction if the person:**

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) or 7(d) of this chapter.

(b) A person commits a Class B misdemeanor if the person:

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) or 7(d) of this chapter.

SECTION 21. IC 12-23-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) Subject to subsection (b), if a court enters an order conditionally deferring charges that involve a violation of IC 9-30-5, the court shall do the following:

(1) Suspend the defendant's driving privileges for at least ninety (90) days but not more than two (2) years.

(2) Impose other appropriate conditions.

(b) A defendant may be granted probationary driving privileges only after the defendant's license has been suspended for at least thirty (30) days under IC 9-30-6-9.

(c) If a defendant has at least one (1) conviction for an offense under IC 9-30-5, the order granting probationary driving privileges under subsection (b) must, in a county that provides for the installation of an ignition interlock device under IC 9-30-8, prohibit the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(d) If a defendant does not have a prior conviction for an offense under IC 9-30-5, the court may, as an alternative to a license suspension under subsection (a)(1), issue an order prohibiting the defendant from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. An order requiring an ignition interlock device must remain in effect for at least two (2) years but not more than four (4) years.

SECTION 22. IC 12-23-5-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 5.5. (a) A person commits a Class B infraction if the person:**

(1) operates a motor vehicle without a functioning certified ignition interlock device; and

(2) is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) of this chapter.

(b) A person commits a Class B misdemeanor if the person:

(1) operates a motor vehicle without a functioning certified

ignition interlock device; and

(2) knows the person is prohibited from operating a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under section 5(d) of this chapter.

SECTION 23. IC 35-48-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) If a person is convicted of an offense under section 1, 2, 3, 4, 5, 6, 7, 10, or 11 of this chapter, or conspiracy to commit an offense under section 1, 2, 3, 4, 5, 6, 7, 10, or 11 of this chapter, **and the court finds that a motor vehicle was used in the commission of the offense,** the court shall, in addition to any other order the court enters, order that the person's:

(1) operator's license be suspended;

(2) existing motor vehicle registrations be suspended; and

(3) ability to register motor vehicles be suspended;

by the bureau of motor vehicles for a period specified by the court of at least six (6) months but not more than two (2) years.

(b) If a person is convicted of an offense described in subsection (a) and the person does not hold an operator's license or a learner's permit, the court shall order that the person may not receive an operator's license or a learner's permit from the bureau of motor vehicles for a period of not less than six (6) months.

(Reference is to EHB 1264 as reprinted February 26, 2004.)

DVORAK	WYSS
DUNCAN	BRODEN
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1254–1; filed March 3, 2004, at 6:45 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1254 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 9-13-2-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.1. "Act", for purposes of IC 9-24-6.5, has the meaning set forth in IC 9-24-6.5-1.**

SECTION 2. IC 9-13-2-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. "Administration", for purposes of IC 9-24-6.5, has the meaning set forth in IC 9-24-6.5-2.**

SECTION 3. IC 9-24-6-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 11.5. (a) This section applies if the United States Department of Homeland Security, Transportation Security Administration adopts regulations concerning disqualifying offenses.**

(b) The bureau shall revoke the hazardous materials endorsement of a driver who:

(1) receives a judgment or conviction for a disqualifying offense (as defined in the regulations described in subsection (a)) immediately upon receiving notice of the judgment or conviction; or

(2) is determined by the United States Department of Homeland Security, Transportation Security Administration to be a potential security threat;

and shall give notice to the driver that the endorsement has been revoked and of the procedure by which the driver may appeal the revocation.

(c) The revocation of the hazardous material endorsement of a driver revocation under subsection (b) is for the period set forth under the regulations described in subsection (a).

SECTION 4. IC 9-24-6-12, AS AMENDED BY P.L.123-2002, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) A driver who:

(1) is:

(A) convicted of an offense described in section 8(1) through 8(4) or 8(6) of this chapter; or

(B) found to have violated section 8(7) of this chapter; and

(2) has been previously convicted in a separate incident of any offense described in section 8(1) through 8(4) or 8(6) of this chapter;

is disqualified for life from driving a commercial motor vehicle.

(b) A driver who applies for a hazardous materials endorsement and has been convicted of:

(1) a felony under Indiana law that results in serious bodily injury or death to another person; or

(2) a crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is disqualified for life from holding a hazardous materials endorsement.

(c) The hazardous materials endorsement of a driver who holds a hazardous materials endorsement and is convicted of a:

(1) felony under Indiana law that results in serious bodily injury or death to another person; or

(2) crime in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a felony described in subdivision (1);

is revoked upon conviction, and the driver is disqualified for life from holding a hazardous materials endorsement.

(d) The hazardous materials endorsement of a driver may be revoked and the driver may be disqualified from holding a hazardous materials endorsement if the revocation and disqualification are required under regulations adopted by the United States Department of Homeland Security, Transportation Security Administration.

SECTION 5. IC 9-24-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 6.5. Hazardous Material Endorsement Application and Renewal

Sec. 1. As used in this chapter, "act" refers to the federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, Pub. L. 107-56, 115 Stat. 272 (2001).

Sec. 2. As used in this chapter, "administration" refers to the United States Department of Homeland Security, Transportation Security Administration.

Sec. 3. The bureau may adopt rules and policies necessary to fully implement the requirements of the act and the regulations adopted to implement the act.

Sec. 4. The bureau shall forward the information provided by an applicant for a hazardous material endorsement to the administration or another agency designated to receive the information if the bureau is required to forward the information under regulations adopted to implement the act.

Sec. 5. The bureau may:

(1) determine the cost to the state of procedures required to comply with regulations adopted to implement the act; and

(2) charge a fee to applicants that is sufficient to offset the cost determined under subdivision (1).

Sec. 6. (a) The hazardous materials endorsement of a driver who applies for renewal of the endorsement may remain valid after the date on which the endorsement would otherwise expire if both of the following conditions are met:

(1) The application for renewal was received by the bureau at least ninety (90) days before the date on which the endorsement expires.

(2) On the date on which the endorsement expires, the bureau has not yet received the results of a background check conducted by the administration or another agency designated to conduct the background check.

(b) Except as provided in subsection (c), an extension under subsection (a) is valid for ninety (90) days after the date on which the endorsement would otherwise expire.

(c) Notwithstanding subsection (b), if the bureau receives

information from the administration or another agency designated to conduct a background check that requires the bureau to revoke the hazardous materials endorsement of a driver, the bureau shall revoke the endorsement immediately upon receipt of the information.

(d) An extension under subsection (a) may be renewed until:

(1) the bureau receives the results of a background check conducted by the administration or another agency designated to conduct the background check; or

(2) further extensions are barred under regulations adopted to implement the act.

Sec. 7. An applicant whose application for a hazardous materials endorsement is denied or whose hazardous materials endorsement is revoked under IC 9-24-6-11.5 may appeal the denial or revocation under IC 4-21.5 or, if other procedures are adopted by the administration or another agency of the United States, under the other procedures.

SECTION 6. IC 9-24-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. A learner's permit authorizes the permit holder to operate a motor vehicle, except a motorcycle, upon a public highway under the following conditions:

(1) While the holder is participating in practice driving in an approved driver education course and is accompanied by a certified driver education instructor in the front seat of an automobile equipped with dual controls.

(2) If the learner's permit has been validated and the holder is less than eighteen (18) years of age, the holder may participate in practice driving if the seat beside the holder is occupied by a guardian, **stepparent,** or relative of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

(3) If the learner's permit has been validated and the holder is at least eighteen (18) years of age, the holder may participate in practice driving if accompanied in the vehicle by an individual who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

(4) While:

(A) the holder is enrolled in an approved driver education course;

(B) the holder is participating in practice driving after having commenced an approved driver education course; and

(C) the seat beside the holder is occupied by a parent, **stepparent,** or guardian of the holder who holds a valid operator's, chauffeur's, or public passenger chauffeur's license.

SECTION 7. IC 9-27-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) To establish or operate a commercial driver training school, the school must obtain a license from the bureau in the manner and form prescribed by the bureau.

(b) **Subject to subsection (c),** the bureau shall adopt rules under IC 4-22-2 that state the requirements for obtaining a school license, including the following:

(1) Location of the school.

(2) Equipment required.

(3) Courses of instruction.

(4) Instructors.

(5) Previous records of the school and instructors.

(6) Financial statements.

(7) Schedule of fees and charges.

(8) Character and reputation of the operators and instructors.

(9) Insurance in the amount and with the provisions the bureau considers necessary to adequately protect the interests of the public.

(10) Other matters the bureau prescribes for the protection of the public.

(c) The rules adopted under subsection (b) must permit a licensed school to conduct classroom training in a county outside the county where the school is located to the students of:

(1) a school corporation (as defined in IC 36-1-2-17);

(2) a nonpublic secondary school that voluntarily becomes accredited under IC 20-1-1-6; or

(3) a nonpublic secondary school recognized under IC 20-1-1-6.2;

if the governing body of the school corporation or the nonpublic secondary school approves the delivery of the training to its students.

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-27-4-4, as amended by this act, the bureau of motor vehicles shall carry out the duties imposed upon it under IC 9-27-4-4, as amended by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-27-4-4, as amended by this act.

(2) December 31, 2004.

SECTION 9. IC 9-13-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. "Approved motorcycle driver education and training course" means:

(1) a course offered by a public or private secondary school, **a new motorcycle dealer,** or other driver education school offering motorcycle driver training as developed and approved by the superintendent of public instruction and the bureau; or

(2) a course that is offered by a commercial driving school or new motorcycle dealer and that is approved by the bureau.

SECTION 10. IC 9-18-2-43 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 43. (a) Notwithstanding any law to the contrary but except as provided in subsection (b), a law enforcement officer authorized to enforce motor vehicle laws who discovers a vehicle required to be registered under this article that does not have the proper certificate of registration or license plate:

(1) shall take the vehicle into the officer's custody; and

(2) may cause the vehicle to be taken to and stored in a suitable place until:

(A) the legal owner of the vehicle can be found; or

(B) the proper certificate of registration and license plates have been procured.

(b) A law enforcement officer who discovers a vehicle in violation of the registration provisions of this article ~~has discretion in the impoundment of~~ **may not impound** any of the following:

(1) Perishable commodities.

(2) Livestock.

~~(c) A person who recklessly violates this section commits a Class A misdemeanor.~~

SECTION 11. IC 9-21-21 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 21. Farm Vehicles Involved in Commercial Enterprises

Sec. 1. A motor vehicle, trailer, or semitrailer and tractor may be operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor if the vehicle meets the specifications set forth in IC 9-29-5-13(b).

Sec. 2. A farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter may not be operated:

(1) part time or incidentally in the conduct of a commercial enterprise; or

(2) for the transportation of farm products after the commodities have entered the channels of commerce.

Sec. 3. A farm truck described in section 1 of this chapter may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.

Sec. 4. If the owner of a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter begins to operate, or permits the farm truck, farm trailer, or farm semitrailer and tractor to be operated:

(1) in the conduct of a commercial enterprise; or

(2) for the transportation of farm products after the commodities have entered the channels of commerce during a registration year for which the license fee under IC 9-29-5-13 has been paid;

the owner shall pay the amount computed under IC 9-29-5-13.5 due for the remainder of the registration year for the license fee.

Sec. 5. In addition to the penalty provided in section 7 of this chapter, a person that operates a vehicle, or allows a vehicle that the person owns to be operated when the vehicle is:

(1) registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor; and

(2) operated as set forth in section 4 of this chapter;

commits a Class C infraction. However, the offense is a Class B infraction if, within the three (3) years preceding the commission of the offense, the person had a prior unrelated judgment under this section.

Sec. 6. For purposes of this chapter, the operation of a vehicle in violation of section 4 of this chapter is a continuing offense and the venue for prosecution lies in a county in which the unlawful operation occurred. However, a:

(1) judgment against; or

(2) finding by the court for;

the owner or operator bars a prosecution in another county.

Sec. 7. (a) A law enforcement officer (as defined in IC 9-13-2-92(1), IC 9-13-2-92(2), or IC 9-13-2-92(3)) who discovers a vehicle registered under this chapter as a farm truck, farm trailer, or farm semitrailer and tractor that is being operated as set forth in section 4 of this chapter:

(1) may take the vehicle into the officer's custody; and

(2) may cause the vehicle to be taken to and stored in a suitable place until:

(A) the legal owner of the vehicle can be found; or

(B) the proper certificate of registration and license plates have been procured and the amount computed under IC 9-29-5-13.5 has been paid.

(b) A law enforcement officer described in subsection (a) who discovers a vehicle in violation of the registration provisions of this chapter may not impound any of the following:

(1) Perishable commodities.

(2) Livestock.

SECTION 12. IC 9-29-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) This section does not apply to a vehicle or person exempt from registration under IC 9-18.

(b) The license fee for a motor vehicle, trailer, or semitrailer and tractor operated primarily as a farm truck, farm trailer, or farm semitrailer and tractor:

(1) having a declared gross weight of at least eleven thousand (11,000) pounds; and

(2) used by the owner or guest occupant in connection with agricultural pursuits usual and normal to the user's farming operation;

is fifty percent (50%) of the amount listed in this chapter for a truck, trailer, or semitrailer and tractor of the same declared gross weight.

~~(c) A farm truck, farm trailer, or farm semitrailer and tractor described in subsection (b) may not be operated either part time or incidentally in the conduct of a commercial enterprise or for the transportation of farm products after the commodities have entered the channels of commerce.~~

~~(d) A farm truck described in subsection (b) may be used for personal purposes if the vehicle otherwise qualifies for that class of registration.~~

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) The bureau of motor vehicles shall adopt rules under IC 4-22-2 to identify and define "farm truck", "farm trailer", and "farm semitrailer and tractor", as required by IC 9-13-2-58.**

(b) Notwithstanding subsection (a), the bureau of motor vehicles shall carry out the duties imposed on it by IC 9-13-2-58 and by this SECTION under interim written guidelines approved by the commissioner of motor vehicles.

(c) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-13-2-58.

(2) December 31, 2005.

SECTION 14. IC 9-13-2-92 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 92. (a) "Law enforcement officer", except as provided in subsection (b), includes the following:

(1) A state police officer.

(2) A city, town, or county police officer.

(3) A sheriff.

(4) A county coroner.

(5) A conservation officer.

(b) "Law enforcement officer", for purposes of **IC 9-21-3-7.5,** IC 9-30-5, IC 9-30-6, IC 9-30-7, IC 9-30-8, and IC 9-30-9, has the meaning set forth in IC 35-41-1.

SECTION 15. IC 9-13-2-99.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 99.7. "Medical, firefighting, or law enforcement emergency", for purposes of IC 9-21-3, has the meaning set forth in IC 9-21-3-7.5.**

SECTION 16. IC 9-13-2-111.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 111.5. "Nongovernmental entity", for purposes of IC 9-21-3, has the meaning set forth in IC 9-21-3-7.5.**

SECTION 17. IC 9-13-2-117.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 117.3. "OPED", for purposes of IC 9-21-3, has the meaning set forth in IC 9-21-3-7.5.**

SECTION 18. IC 9-13-2-128 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 128. **(a) Except as provided in subsection (b),** "political subdivision" means a county, a township, a city, a town, a public school corporation, or any other subdivision of the state recognized in any law, including any special taxing district or entity and any public improvement district authority or entity authorized to levy taxes or assessments.

(b) "Political subdivision", for purposes of IC 9-21-3-7.5, means the following:

(1) A unit.

(2) A township.

(3) A school corporation (as defined in IC 36-1-2-17).

(4) A local hospital authority (as defined in IC 5-1-4-3).

(5) A local airport authority (as defined in IC 8-22-3-1).

(6) A public transportation corporation established under IC 36-9-4-10.

SECTION 19. IC 9-13-2-144.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 144.2. "Public safety officer", for purposes of IC 9-21-3, has the meaning set forth in IC 9-21-3-7.5.**

SECTION 20. IC 9-13-2-192 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 192. "Unit", for purposes of **section 128 of this chapter and** IC 9-21-18, has the meaning set forth in IC 9-21-18-3.

SECTION 21. IC 9-21-3-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 7.5. (a) As used in this section, "medical, firefighting, or law enforcement emergency" means the following:**

(1) A medical condition that requires immediate medical attention.

(2) The occurrence of an event or the expected occurrence of an event that presumably requires immediate firefighting, medical, or law enforcement attention.

(3) The commission or the alleged commission of a criminal act that requires immediate intervention or investigation by a law enforcement officer.

(b) As used in this section, "nongovernmental entity" means a person or legal entity that is not:

(1) the state; or

(2) a political subdivision.

(c) As used in this section, "OPED" means an optical preemption emitter device that:

(1) emits a visible or nonvisible light source or an electronic signal; and

(2) is intended to be used to alter the movement of traffic by changing the sequence or interval on a traffic control signal.

(d) As used in this section, "public safety officer" means a:

(1) law enforcement officer;

(2) certified paramedic;

(3) certified emergency medical technician;

(4) certified medical service driver;

(5) certified medical service first responder;

(6) member of a fire department (as defined in IC 36-8-1-8); or

(7) volunteer firefighter (as defined in IC 36-8-12-2).

(e) An individual may not knowingly or intentionally use an OPED to change the light sequence or interval of a traffic control signal, unless the individual is:

(1) a public safety officer who is:

(A) a passenger in or operating an authorized emergency vehicle; and

(B) responding and in direct route to a medical, firefighting, or law enforcement emergency;

(2) an authorized traffic control technician who is:

(A) installing a preemption device; or

(B) testing or repairing a malfunctioning preemption device; or

(3) an employee of a public transportation corporation who is operating:

(A) an official public transportation motor vehicle; and

(B) on a scheduled route.

(f) A person may not knowingly or intentionally sell or offer for sale an OPED to a nongovernmental entity.

SECTION 22. IC 9-21-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11. **(a)** A person who violates section 7, 8, 9, or 10 of this chapter commits a Class C infraction.

(b) A person that knowingly or intentionally violates section 7.5(e) or 7.5(f) of this chapter commits a Class A misdemeanor.

SECTION 23. [EFFECTIVE JULY 1, 2004] **IC 9-21-3-7.5, as added by this act, applies only to offenses committed after June 30, 2004.**

SECTION 24. IC 9-22-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) An individual, a firm, a limited liability company, or a corporation that performs labor, furnishes materials or storage, or does repair work on a motor vehicle, trailer, semitrailer, or recreational vehicle at the request of the person who owns the motor vehicle has a lien on the vehicle to the reasonable value of the charges for the labor, materials, storage, or repairs.

(b) **An individual, a firm, a partnership, a limited liability company, or a corporation that provides towing services for a motor vehicle, trailer, semitrailer, or recreational vehicle at the request of:**

(1) the person who owns the motor vehicle, trailer, semitrailer, or recreational vehicle; or

(2) an individual, a firm, a partnership, a limited liability company, or a corporation on whose property an abandoned vehicle, trailer, semitrailer, or recreational vehicle is located;

has a lien on the vehicle to the reasonable value of the charges for the towing services and other related costs. An individual, a firm, a partnership, a limited liability company, or a corporation that obtains a lien for an abandoned vehicle under subdivision (2) must comply with the requirements of IC 9-22-1-16, IC 9-22-1-17, and IC 9-22-1-19.

(c) If:

(1) the charges made under subsection (a) **or (b)** are not paid; and

(2) the motor vehicle, trailer, semitrailer, or recreational vehicle is not claimed;

within thirty (30) days from the date on which the motor vehicle was left in **or came into** the possession of the individual, firm, limited liability company, or corporation for repairs, storage, **towing,** or the furnishing of materials, the individual, firm, limited liability company, or corporation may advertise the vehicle for sale. The vehicle may not be sold before fifteen (15) days after the date the advertisement required by subsection ~~(c)~~ **(d)** has been placed or after notice required by subsection ~~(d)~~ **(e)** has been sent, whichever is later.

~~(c)~~ **(d)** Before a vehicle may be sold under subsection ~~(b),~~ **(c),** an advertisement must be placed in a newspaper of general circulation printed in the English language in the city or town in which the lienholder's place of business is located. The advertisement must contain at least the following information:

(1) A description of the vehicle, including make, type, and manufacturer's identification number.

(2) The amount of the unpaid charges.

(3) The time, place, and date of the sale.

~~(d)~~ **(e)** In addition to the advertisement required under subsection ~~(c),~~ **(d),** the person who holds the mechanic's lien must:

(1) notify the person who owns the motor vehicle and any other person who holds a lien of record at the person's last known address by certified mail, return receipt requested; **or**

(2) if the motor vehicle is an abandoned motor vehicle, provide notice as required under subdivision (1) if the location of the owner of the motor vehicle or a lienholder of record is determined by the bureau in a search under IC 9-22-1-20;

that the vehicle will be sold at public auction on a specified date to satisfy the lien imposed by this section.

~~(e)~~ **(f)** A person who holds a lien of record on a vehicle subject to sale under this section may pay the storage, repair, **towing,** or service charges due. If the person who holds the lien of record elects to pay the charges due, the person is entitled to possession of the vehicle and becomes the holder of the mechanic's lien imposed by this section.

~~(f)~~ **(g)** If the person who owns a vehicle subject to sale under this section does not claim the vehicle and satisfy the lien on the vehicle, the vehicle may be sold at public auction to the highest and best bidder for cash. A person who holds a mechanic's lien under this section may purchase a motor vehicle subject to sale under this section.

~~(g)~~ **(h)** A person who holds a mechanic's lien under this section may deduct and retain the amount of the lien and the cost of the advertisement required under subsection ~~(c)~~ **(d)** from the purchase price received for a motor vehicle sold under this section. After deducting from the purchase price the amount of the lien and the cost of the advertisement, the person shall pay the surplus of the purchase price to the person who owns the motor vehicle if the person's address or whereabouts is known. If the address or whereabouts of the person who owns the vehicle is not known, the surplus of the purchase price shall be paid over to the clerk of the circuit court of the county in which the person who holds the mechanic's lien has a place of business for the use and benefit of the person who owns the vehicle.

~~(h)~~ **(i)** A person who holds a mechanic's lien under this section shall execute and deliver to the purchaser of a vehicle under this section a sales certificate in the form designated by the bureau, setting forth the following information:

(1) The facts of the sale.

(2) The vehicle identification number.

(3) The certificate of title if available.

(4) A certificate from the newspaper showing that the advertisement was made as required under subsection ~~(c).~~ **(d).**

Whenever the bureau receives from the purchaser an application for certificate of title accompanied by these items, the bureau shall issue a certificate of title for the vehicle under IC 9-17.

SECTION 25. IC 32-33-10-5, AS ADDED BY P.L.2-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. A person engaged in:

(1) **towing,** repairing, storing, servicing, or furnishing supplies or accessories for motor vehicles, airplanes, construction machinery and equipment, and farm machinery; or

(2) maintaining a motor vehicle garage, an airport or repair shop for airplanes, or a repair shop or servicing facilities for construction machinery and equipment and farm machinery;

has a lien on any motor vehicle or airplane or any unit of construction machinery and equipment or farm machinery **towed,** stored, repaired, serviced, or maintained for the person's reasonable charges for the **towing,** repair work, storage, or service, including reasonable charges for labor, for the use of tools, machinery, and equipment, and for all accessories, materials, gasoline, oils, lubricants, and other supplies furnished in connection with the **towing,** repair, storage, servicing, or maintenance of the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery.

SECTION 26. IC 32-33-10-6, AS ADDED BY P.L.2-2002, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A person seeking to acquire a lien upon a motor vehicle, an airplane, a unit of construction

machinery and equipment, or farm machinery, whether the claim to be secured by the lien is then due or not, must file in the recorder's office of the county where:

(1) the **towing,** repair, service, or maintenance work was performed; or

(2) the storage, supplies, or accessories were furnished;

a notice in writing of the intention to hold the lien upon the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery for the amount of the person's claim.

(b) A notice filed under subsection (a) must specifically state the amount claimed and give a substantial description of the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery upon which the lien is asserted.

(c) Any description in a notice of intention to hold a lien filed under subsection (a) is sufficient if by the description the motor vehicle, airplane, unit of construction machinery and equipment, or farm machinery can be identified.

(d) A notice under subsection (a) must be filed in the recorder's office not later than sixty (60) days after the:

(1) performance of the **towing or** work; or ~~the~~

(2) furnishing of the storage, supplies, accessories, or materials.

SECTION 27. **An emergency is declared for this act.**

(Reference is to EHB 1254 as printed February 20, 2004.)

ROBERTSON	MERRITT
BURTON	R. YOUNG
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1350–1; filed March 3, 2004, at 9:17 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1350 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 16-18-2-62 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 62. (a) "Commission", for purposes of IC 16-19-6, refers to the commission for special institutions.

(b) "Commission", for purposes of IC 16-31, refers to the Indiana emergency medical services commission.

(c) "Commission", for purposes of IC 16-46-11.1, has the meaning set forth in IC 16-46-11.1-1.

SECTION 2. IC 16-18-2-161.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 161.5. "Health care interpreter", for purposes of IC 16-46-11.1, has the meaning set forth in IC 16-46-11.1-2.**

SECTION 3. IC 16-18-2-163.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 163.5. "Health care translator", for purposes of IC 16-46-11.1, has the meaning set forth in IC 16-46-11.1-3.**

SECTION 4. IC 16-46-11.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 11.1. Commission on Health Care Interpreters and Translators

Sec. 1. For purposes of this chapter, "commission" refers to the commission on health care interpreters and translators established by section 4 of this chapter.

Sec. 2. For purposes of this chapter, "health care interpreter" means a professional interpreter who works primarily in the field of health care facilitating the oral communication among a:

(1) provider;

(2) patient; and

(3) patient's family.

Sec. 3. For purposes of this chapter, "health care translator" means a professional translator who:

(1) works primarily in the field of health care; and

(2) specializes in the translation of written medical documents from one (1) language into another.

Sec. 4. The commission on health care interpreters and translators is established. The state department shall provide staff for the commission.

Sec. 5. (a) The commission consists of the following fifteen (15) members:

(1) One (1) member representing the state department.

(2) One (1) member representing local health departments.

(3) One (1) member representing the medical profession.

(4) One (1) member representing institutions of higher education in Indiana.

(5) Two (2) members representing patient advocacy groups.

(6) One (1) member representing community organizations.

(7) One (1) member representing interpreter professional associations.

(8) One (1) member representing translator professional associations.

(9) One (1) member representing hospitals.

(10) One (1) member representing the interagency state council on black and minority health.

(11) One (1) member representing the department of correction who is nominated by the commissioner of the department of correction.

(12) One (1) member representing the department of education who is nominated by the state superintendent of public instruction.

(13) One (1) member representing the office of Medicaid policy and planning who is nominated by the director of the office of Medicaid policy and planning.

(14) The executive director of the health professions bureau or the executive director's designee.

The state health commissioner shall appoint the members of the commission designated by subdivisions (1) through (13). The appointments made under this subsection must be made in a manner to maintain cultural and language diversity.

(b) The state health commissioner shall designate:

(1) one (1) member as chairperson of the commission; and

(2) one (1) member as vice chairperson of the commission.

(c) Except for the member of the commission designated by subsection (a)(14), a member is appointed to a term of two (2) years or until a successor is appointed. A member may be reappointed to an unlimited number of terms.

(d) Except for the member of the commission designated by subsection (a)(14), if a member:

(1) resigns;

(2) dies; or

(3) is removed from the commission;

before the expiration of the member's term, the state health commissioner shall appoint a new member to serve for the remainder of the term.

(e) The expenses of the commission shall be paid from funds appropriated to the state department.

(f) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(g) The affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure.

(h) The commission shall meet quarterly or on the call of the chairperson.

Sec. 6. The commission shall do the following:

(1) Write bylaws concerning the operation of the commission.

(2) Define the terms "health care interpreter" and "health care translator".

(3) Review and determine the proper level of regulation or oversight that Indiana should have over health care interpreters and health care translators practicing in

Indiana.

(4) Recommend the level and type of education necessary to perform the job of:

(A) a health interpreter; and

(B) a health care translator.

(5) Recommend standards that health care interpreters and health care translators should meet in order to practice in Indiana.

SECTION 5. [EFFECTIVE JULY 1, 2004] **(a) The initial terms of office of the fourteen (14) individuals described IC 16-46-11.1-5(a)(1) through IC 16-46-11.1-5(a)(13), initially appointed to the commission on health care interpreters and translators under IC 16-46-11.1-5, as added by this act, are as follows:**

(1) Seven (7) members for a term of one (1) year; and

(2) Seven (7) members for a term of two (2) years.

The state health commissioner shall designate the term of office of each individual initially appointed to the commission.

(b) This SECTION expires June 30, 2005.

SECTION 6. [EFFECTIVE JULY 1, 2004] **(a) As used in this SECTION, "commission" refers to the commission on health care interpreters and translators established by IC 16-46-11.1-4, as added by this act.**

(b) Not later than November 1, 2004, the commission shall report the commission's findings and recommendations determined under IC 16-46-11.1-6, as added by this act, to the health finance commission established by IC 2-5-23-3.

(c) This SECTION expires December 31, 2005.

(Reference is to EHB 1350 as printed February 20, 2004.)

AGUILERA	C. LAWSON
BUDAK	BREAUX
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1005–1; filed March 3, 2004, at 9:18 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1005 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 6-1.1-5.5-3, AS AMENDED BY P.L.1-2004, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Before filing a conveyance document with the county auditor under IC 6-1.1-5-4, all the parties to the conveyance must complete and sign a sales disclosure form as prescribed by the department of local government finance under section 5 of this chapter. All the parties may sign one (1) form, or if all the parties do not agree on the information to be included on the completed form, each party may sign and file a separate form.

(b) Except as provided in subsection (c), the auditor shall forward each sales disclosure form to the county assessor. The county assessor shall retain the forms for five (5) years. The county assessor shall forward the sales disclosure form data to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

The county assessor shall forward a copy of the sales disclosure forms to the township assessors in the county. The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(c) In a county containing a consolidated city, the auditor shall forward the sales disclosure form to the appropriate township assessor. The township assessor shall forward the sales disclosure form to the department of local government finance and the legislative services agency:

(1) before January 1, 2005, in an electronic format, if possible; and

(2) after December 31, 2004, in an electronic format specified jointly by the department of local government finance and the legislative services agency.

~~The township assessor shall forward a copy of the sales disclosure forms to the township assessors in the county.~~ The forms may be used by the county assessing officials, the department of local government finance, and the legislative services agency for the purposes established in IC 6-1.1-4-13.6, sales ratio studies, equalization, adoption of rules under IC 6-1.1-31-3 and IC 6-1.1-31-6, and any other authorized purpose.

(d) If a sales disclosure form includes the telephone number or Social Security number of a party, the telephone number or Social Security number is confidential.

SECTION 2. IC 6-1.1-5.5-5, AS AMENDED BY P.L.90-2002, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. The department of local government finance shall prescribe a sales disclosure form for use under this chapter. The form prescribed by the department of local government finance must include at least the following information:

(1) The key number of the parcel (as defined in IC 6-1.1-1-8.5).

(2) Whether the entire parcel is being conveyed.

(3) The address of the property.

(4) The date of the execution of the form.

(5) The date the property was transferred.

(6) Whether the transfer includes an interest in land **or** improvements, or both.

(7) Whether the transfer includes personal property.

(8) An estimate of any personal property included in the transfer.

(9) The name and address of each transferor and transferee.

(10) The mailing address to which the property tax bills or other official correspondence should be sent.

(11) The ownership interest transferred.

(12) The classification of the property (as residential, commercial, industrial, agricultural, vacant land, or other).

(13) The total price actually paid or required to be paid in exchange for the conveyance, whether in terms of money, property, a service, an agreement, or other consideration, but excluding tax payments and payments for legal and other services that are incidental to the conveyance.

(14) The terms of seller provided financing, such as interest rate, points, type of loan, amount of loan, and amortization period, and whether the borrower is personally liable for repayment of the loan.

(15) Any family or business relationship existing between the transferor and the transferee.

(16) Other information as required by the department of local government finance to carry out this chapter.

If a form under this section includes the telephone number or the Social Security number of a party, the telephone number or the Social Security number is confidential.

SECTION 3. IC 6-1.1-12-43 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 43. (a) For purposes of this section:**

(1) "benefit" refers to:

(A) a deduction under section 1, 9, 11, 13, 14, 16, 17.4, 26, 29, 31, 33, or 34 of this chapter; or

(B) the homestead credit under IC 6-1.1-20.9-2;

(2) "closing agent" means a person that closes a transaction; (3) "customer" means an individual who obtains a loan in a transaction; and

(4) "transaction" means a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction.

(b) Before closing a transaction after December 31, 2004, a closing agent must provide to the customer the form referred to in subsection (c).

(c) Before June 1, 2004, the department of local government finance shall prescribe the form to be provided by closing agents to customers under subsection (b). The department shall make the form available to closing agents, county assessors, county auditors, and county treasurers in hard copy and electronic form. County assessors, county auditors, and county treasurers shall make the form available to the general public. The form must:

(1) on one (1) side:

(A) list each benefit;

(B) list the eligibility criteria for each benefit; and

(C) indicate that a new application for a deduction under section 1 of this chapter is required when residential real property is refinanced;

(2) on the other side indicate:

(A) each action by; and

(B) each type of documentation from;

the customer required to file for each benefit; and

(3) be printed in one (1) of two (2) or more colors prescribed by the department of local government finance that distinguish the form from other documents typically used in a closing referred to in subsection (b).

(d) A closing agent:

(1) may reproduce the form referred to in subsection (c);

(2) in reproducing the form, must use a print color prescribed by the department of local government finance; and

(3) is not responsible for the content of the form referred to in subsection (c) and shall be held harmless by the department of local government finance from any liability for the content of the form.

(e) A closing agent to which this section applies shall document its compliance with this section with respect to each transaction in the form of verification of compliance signed by the customer.

(f) A closing agent is subject to a civil penalty of twenty-five dollars ($25) for each instance in which the closing agent fails to comply with this section with respect to a customer. The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the closing agent in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the property tax replacement fund.

A closing agent is not liable for any other damages claimed by a customer because of the closing agent's mere failure to provide the appropriate document to the customer.

(g) The state agency that has administrative jurisdiction over a closing agent shall:

(1) examine the closing agent to determine compliance with this section; and

(2) impose and collect penalties under subsection (f).

SECTION 4. IC 6-1.1-12.1-1, AS AMENDED BY P.L.4-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. For purposes of this chapter:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues; and

(B) a residentially distressed area, except as otherwise provided in this chapter.

(2) "City" means any city in this state, and "town" means any town incorporated under IC 36-5-1.

(3) "New manufacturing equipment" means any tangible personal property which:

(A) was installed after February 28, 1983, and before January 1, 2006, in an area that is declared an economic revitalization area after February 28, 1983, in which a deduction for tangible personal property is allowed;

(B) is used in the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining, or finishing of other tangible personal property, including but not limited to use to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(C) was acquired by its owner for use as described in clause (B) and was never before used by its owner for any purpose in Indiana.

However, notwithstanding any other law, the term includes tangible personal property that is used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products and was installed after March 1, 1993, and before March 2, 1996, even if the property was installed before the area where the property is located was designated as an economic revitalization area or the statement of benefits for the property was approved by the designating body.

(4) "Property" means a building or structure, but does not include land.

(5) "Redevelopment" means the construction of new structures in economic revitalization areas, either:

(A) on unimproved real estate; or

(B) on real estate upon which a prior existing structure is demolished to allow for a new construction.

(6) "Rehabilitation" means the remodeling, repair, or betterment of property in any manner or any enlargement or extension of property.

(7) "Designating body" means the following:

(A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town.

(B) For a county containing a consolidated city, the metropolitan development commission.

(8) "Deduction application" means either:

(A) the application filed in accordance with section 5 of this chapter by a property owner who desires to obtain the deduction provided by section 3 of this chapter; or

(B) the application filed in accordance with section 5.5 of this chapter by a person who desires to obtain the deduction provided by section 4.5 of this chapter.

(9) "Designation application" means an application that is filed with a designating body to assist that body in making a determination about whether a particular area should be designated as an economic revitalization area.

(10) "Hazardous waste" has the meaning set forth in IC 13-11-2-99(a). The term includes waste determined to be a hazardous waste under IC 13-22-2-3(b).

(11) "Solid waste" has the meaning set forth in IC 13-11-2-205(a). However, the term does not include dead animals or any animal solid or semisolid wastes.

(12) "New research and development equipment" means tangible personal property that:

(A) is installed after June 30, 2000, and before January 1, 2006, in an economic revitalization area in which a deduction for tangible personal property is allowed;

(B) consists of:

(i) laboratory equipment;

(ii) research and development equipment;

(iii) computers and computer software;

(iv) telecommunications equipment; or

(v) testing equipment;

(C) is used in research and development activities devoted directly and exclusively to experimental or laboratory research and development for new products, new uses of existing products, or improving or testing existing products; and

(D) is acquired by the property owner for purposes described

in this subdivision and was never before used by the owner for any purpose in Indiana.

The term does not include equipment installed in facilities used for or in connection with efficiency surveys, management studies, consumer surveys, economic surveys, advertising or promotion, or research in connection with literacy, history, or similar projects.

(13) "New logistical distribution equipment" means tangible personal property that:

(A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:

(i) in which a deduction for tangible personal property is allowed; and

(ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter..

(B) consists of:

(i) racking equipment;

(ii) scanning or coding equipment;

(iii) separators;

(iv) conveyors;

(v) fork lifts or lifting equipment (including "walk behinds");

(vi) transitional moving equipment;

(vii) packaging equipment;

(viii) sorting and picking equipment; or

(ix) software for technology used in logistical distribution;

(C) is used for the storage or distribution of goods, services, or information; and

(D) before being used as described in clause (C), was never used by its owner for any purpose in Indiana.

(14) "New information technology equipment" means tangible personal property that:

(A) is installed after June 30, 2004, and before January 1, 2006, in an economic revitalization area:

(i) in which a deduction for tangible personal property is allowed; and

(ii) located in a county referred to in section 2.3 of this chapter, subject to section 2.3(c) of this chapter.

(B) consists of equipment, including software, used in the fields of:

(i) information processing;

(ii) office automation;

(iii) telecommunication facilities and networks;

(iv) informatics;

(v) network administration;

(vi) software development; and

(vii) fiber optics; and

(C) before being installed as described in clause (A), was never used by its owner for any purpose in Indiana.

SECTION 5. IC 6-1.1-12.1-2, AS AMENDED BY P.L.4-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area. However, the deduction provided by this chapter for economic revitalization areas not within a city or town shall not be available to retail businesses.

(b) In a county containing a consolidated city or within a city or town, a designating body may find that a particular area within its jurisdiction is a residentially distressed area. Designation of an area as a residentially distressed area has the same effect as designating an area as an economic revitalization area, except that the amount of the deduction shall be calculated as specified in section 4.1 of this chapter and the deduction is allowed for not more than five (5) years. In order to declare a particular area a residentially distressed area, the designating body must follow the same procedure that is required to designate an area as an economic revitalization area and must make all the following additional findings or all the additional findings described in subsection (c):

(1) The area is comprised of parcels that are either unimproved or contain only one (1) or two (2) family dwellings or multifamily dwellings designed for up to four (4) families, including accessory buildings for those dwellings.

(2) Any dwellings in the area are not permanently occupied and are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) Parcels of property in the area:

(A) have been sold and not redeemed under IC 6-1.1-24 and IC 6-1.1-25; or

(B) are owned by a unit of local government.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection or one (1) of the additional findings described in subsection (c).

(c) In a county containing a consolidated city or within a city or town, a designating body that wishes to designate a particular area a residentially distressed area may make the following additional findings as an alternative to the additional findings described in subsection (b):

(1) A significant number of dwelling units within the area are not permanently occupied or a significant number of parcels in the area are vacant land.

(2) A significant number of dwelling units within the area are:

(A) the subject of an order issued under IC 36-7-9; or

(B) evidencing significant building deficiencies.

(3) The area has experienced a net loss in the number of dwelling units, as documented by census information, local building and demolition permits, or certificates of occupancy, or the area is owned by Indiana or the United States.

(4) The area (plus any areas previously designated under this subsection) will not exceed ten percent (10%) of the total area within the designating body's jurisdiction.

However, in a city in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), the designating body is only required to make one (1) of the additional findings described in this subsection as an alternative to one (1) of the additional findings described in subsection (b).

(d) A designating body is required to attach the following conditions to the grant of a residentially distressed area designation:

(1) The deduction will not be allowed unless the dwelling is rehabilitated to meet local code standards for habitability.

(2) If a designation application is filed, the designating body may require that the redevelopment or rehabilitation be completed within a reasonable period of time.

(e) To make a designation described in subsection (a) or (b), the designating body shall use procedures prescribed in section 2.5 of this chapter.

(f) The property tax deductions provided by sections 3 and 4.5 of this chapter are only available within an area which the designating body finds to be an economic revitalization area.

(g) The designating body may adopt a resolution establishing general standards to be used, along with the requirements set forth in the definition of economic revitalization area, by the designating body in finding an area to be an economic revitalization area. The standards must have a reasonable relationship to the development objectives of the area in which the designating body has jurisdiction. The following three (3) sets of standards may be established:

(1) One (1) relative to the deduction under section 3 of this chapter for economic revitalization areas that are not residentially distressed areas.

(2) One (1) relative to the deduction under section 3 of this chapter for residentially distressed areas.

(3) One (1) relative to the deduction allowed under section 4.5 of this chapter.

(h) A designating body may impose a fee for filing a designation application for a person requesting the designation of a particular area as an economic revitalization area. The fee may be sufficient to defray actual processing and administrative costs. However, the fee charged for filing a designation application for a parcel that contains one (1) or more owner-occupied, single-family dwellings may not exceed the cost of publishing the required notice.

(i) In declaring an area an economic revitalization area, the designating body may:

(1) limit the time period to a certain number of calendar years

during which the area shall be so designated;

(2) limit the type of deductions that will be allowed within the economic revitalization area to either the deduction allowed under section 3 of this chapter or the deduction allowed under section 4.5 of this chapter;

(3) limit the dollar amount of the deduction that will be allowed with respect to new manufacturing equipment, ~~and~~ new research and development equipment, **new logistical distribution equipment, and new information technology equipment** if a deduction under this chapter had not been filed before July 1, 1987, for that equipment;

(4) limit the dollar amount of the deduction that will be allowed with respect to redevelopment and rehabilitation occurring in areas that are designated as economic revitalization areas on or after September 1, 1988; or

(5) impose reasonable conditions related to the purpose of this chapter or to the general standards adopted under subsection (g) for allowing the deduction for the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

To exercise one (1) or more of these powers a designating body must include this fact in the resolution passed under section 2.5 of this chapter.

(j) Notwithstanding any other provision of this chapter, if a designating body limits the time period during which an area is an economic revitalization area, that limitation does not:

(1) prevent a taxpayer from obtaining a deduction for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** installed before January 1, 2006, but after the expiration of the economic revitalization area if:

(A) the economic revitalization area designation expires after December 30, 1995; and

(B) the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** was described in a statement of benefits submitted to and approved by the designating body in accordance with section 4.5 of this chapter before the expiration of the economic revitalization area designation; or

(2) limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under section 4 or 4.5 of this chapter.

(k) Notwithstanding any other provision of this chapter, deductions:

(1) that are authorized under section 3 of this chapter for property in an area designated as an urban development area before March 1, 1983, and that are based on an increase in assessed valuation resulting from redevelopment or rehabilitation that occurs before March 1, 1983; or

(2) that are authorized under section 4.5 of this chapter for new manufacturing equipment installed in an area designated as an urban development area before March 1, 1983;

apply according to the provisions of this chapter as they existed at the time that an application for the deduction was first made. No deduction that is based on the location of property or new manufacturing equipment in an urban development area is authorized under this chapter after February 28, 1983, unless the initial increase in assessed value resulting from the redevelopment or rehabilitation of the property or the installation of the new manufacturing equipment occurred before March 1, 1983.

(l) If property located in an economic revitalization area is also located in an allocation area (as defined in IC 36-7-14-39 or IC 36-7-15.1-26), an application for the property tax deduction provided by this chapter may not be approved unless the commission that designated the allocation area adopts a resolution approving the application.

SECTION 6. IC 6-1.1-12.1-2.3 IS ADDED AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.3. (a) This section applies only to:**

(1) a county in which mile markers fourteen (14) through one hundred twenty (120) of Interstate Highway 69 are located as of March 1, 2004; and

(2) a city or town located in a county referred to in subdivision (1).

(b) A designating body may adopt a resolution under section 2.5 of this chapter to authorize a deduction for new logistical distribution equipment or new information technology equipment.

(c) If any amendment to this chapter that takes effect July 1, 2004, applies a deduction under this chapter for new logistical distribution equipment or new information technology equipment to a broader geographic area than the deduction that would apply under a resolution adopted under this section, the more broadly applied deduction controls with respect to the application of the deduction for new logistical distribution equipment or new information technology equipment.

SECTION 7. IC 6-1.1-12.1-4.5, AS AMENDED BY P.L.1-2003, SECTION 22, AND AS AMENDED BY P.L.245-2003, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4.5. (a) For purposes of this section, "personal property" means personal property other than inventory (as defined in IC 6-1.1-3-11(a)).

(b) An applicant must provide a statement of benefits to the designating body. The applicant must provide the completed statement of benefits form to the designating body before the hearing specified in section 2.5(c) of this chapter or before the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** that the person proposes to acquire.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, **new logistical distribution equipment, or new information technology equipment;**

an estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** and an estimate of the annual salaries of these individuals.

(3) An estimate of the cost of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, an estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products by the new manufacturing equipment.

The statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(c) The designating body must review the statement of benefits required under subsection (b). The designating body shall determine whether an area should be designated an economic revitalization area or whether the deduction shall be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the cost of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new**

information technology equipment is reasonable for equipment of that type.

(2) With respect to:

(A) new manufacturing equipment not used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products; and

(B) new research and development equipment, **new logistical distribution equipment, or new information technology equipment;**

whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the installation of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(4) With respect to new manufacturing equipment used to dispose of solid waste or hazardous waste by converting the solid waste or hazardous waste into energy or other useful products, whether the estimate of the amount of solid waste or hazardous waste that will be converted into energy or other useful products can be reasonably expected to result from the installation of the new manufacturing equipment.

(5) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(6) Whether the totality of benefits is sufficient to justify the deduction.

The designating body may not designate an area an economic revitalization area or approve the deduction unless it makes the findings required by this subsection in the affirmative.

(d) Except as provided in subsection (h), an owner of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** whose statement of benefits is approved after June 30, 2000, is entitled to a deduction from the assessed value of that equipment for the number of years determined by the designating body under subsection (g). Except as provided in subsection (f) and in section 2(i)(3) of this chapter, the amount of the deduction that an owner is entitled to for a particular year equals the product of:

(1) the assessed value of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** in the year of deduction under the appropriate table set forth in subsection (e); multiplied by

(2) the percentage prescribed in the *appropriate* table set forth in subsection (e).

(e) The percentage to be used in calculating the deduction under subsection (d) is as follows:

(1) For deductions allowed over a one (1) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd and thereafter	0%

(2) For deductions allowed over a two (2) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	50%
3rd and thereafter	0%

(3) For deductions allowed over a three (3) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	66%
3rd	33%
4th and thereafter	0%

(4) For deductions allowed over a four (4) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	75%
3rd	50%
4th	25%
5th and thereafter	0%

(5) For deductions allowed over a five (5) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	80%
3rd	60%
4th	40%
5th	20%
6th and thereafter	0%

(6) For deductions allowed over a six (6) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	66%
4th	50%
5th	34%
6th	25%
7th and thereafter	0%

(7) For deductions allowed over a seven (7) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	85%
3rd	71%
4th	57%
5th	43%
6th	29%
7th	14%
8th and thereafter	0%

(8) For deductions allowed over an eight (8) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	75%
4th	63%
5th	50%
6th	38%
7th	25%
8th	13%
9th and thereafter	0%

(9) For deductions allowed over a nine (9) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	88%
3rd	77%
4th	66%
5th	55%
6th	44%
7th	33%
8th	22%
9th	11%
10th and thereafter	0%

(10) For deductions allowed over a ten (10) year period:

YEAR OF DEDUCTION	PERCENTAGE
1st	100%
2nd	90%
3rd	80%
4th	70%
5th	60%
6th	50%
7th	40%
8th	30%
9th	20%
10th	10%
11th and thereafter	0%

(f) With respect to new manufacturing equipment and new research and development equipment installed before March 2, 2001, the

deduction under this section is the amount that causes the net assessed value of the property after the application of the deduction under this section to equal the net assessed value after the application of the deduction under this section that results from computing:

(1) the deduction under this section as in effect on March 1, 2001; and

(2) the assessed value of the property under 50 IAC 4.2, as in effect on March 1, 2001, or, in the case of property subject to IC 6-1.1-8, 50 IAC 5.1, as in effect on March 1, 2001.

(g) For an economic revitalization area designated before July 1, 2000, the designating body shall determine whether a property owner whose statement of benefits is approved after April 30, 1991, is entitled to a deduction for five (5) or ten (10) years. For an economic revitalization area designated after June 30, 2000, the designating body shall determine the number of years the deduction is allowed. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(h) The owner of new manufacturing equipment that is directly used to dispose of hazardous waste is not entitled to the deduction provided by this section for a particular assessment year if during that assessment year the owner:

(1) is convicted of a violation under IC 13-7-13-3 (repealed), IC 13-7-13-4 (repealed), or IC 13-30-6; or

(2) is subject to an order or a consent decree with respect to property located in Indiana based on a violation of a federal or state rule, regulation, or statute governing the treatment, storage, or disposal of hazardous wastes that had a major or moderate potential for harm.

SECTION 8. IC 6-1.1-12.1-5.4, AS AMENDED BY P.L.245-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.4. (a) A person that desires to obtain the deduction provided by section 4.5 of this chapter must file a certified deduction application on forms prescribed by the department of local government finance with the auditor of the county in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is located. A person that timely files a personal property return under IC 6-1.1-3-7(a) for the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is installed must file the application between March 1 and May 15 of that year. A person that obtains a filing extension under IC 6-1.1-3-7(b) for the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is installed must file the application between March 1 and the extended due date for that year.

(b) The deduction application required by this section must contain the following information:

(1) The name of the owner of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(2) A description of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(3) Proof of the date the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** was installed.

(4) The amount of the deduction claimed for the first year of the deduction.

(c) This subsection applies to a deduction application with respect to new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** for which a statement of benefits was initially approved after April 30, 1991. If a determination about the number of years the deduction is allowed has not been made in the resolution adopted under section 2.5 of this chapter, the county auditor shall send a copy of the deduction application to the designating body, and the designating body shall adopt a resolution under section 4.5(g)(2) of this chapter.

(d) A deduction application must be filed under this section in the year in which the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** is installed and in each of the immediately succeeding years the deduction is allowed.

(e) Subject to subsection (i), the county auditor shall:

(1) review the deduction application; and

(2) approve, deny, or alter the amount of the deduction.

Upon approval of the deduction application or alteration of the amount of the deduction, the county auditor shall make the deduction. The county auditor shall notify the county property tax assessment board of appeals of all deductions approved under this section.

(f) If the ownership of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** changes, the deduction provided under section 4.5 of this chapter continues to apply to that equipment if the new owner:

(1) continues to use the equipment in compliance with any standards established under section 2(g) of this chapter; and

(2) files the deduction applications required by this section.

(g) The amount of the deduction is the percentage under section 4.5 of this chapter that would have applied if the ownership of the property had not changed multiplied by the assessed value of the equipment for the year the deduction is claimed by the new owner.

(h) A person may appeal the determination of the county auditor under subsection (e) by filing a complaint in the office of the clerk of the circuit or superior court not more than forty-five (45) days after the county auditor gives the person notice of the determination.

(i) Before the county auditor acts under subsection (e), the county auditor may request that the township assessor in which the property is located review the deduction application.

SECTION 9. IC 6-1.1-12.1-5.6, AS AMENDED BY P.L.4-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.6. (a) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter before July 1, 1991. In addition to the requirements of section 5.5(b) of this chapter, a deduction application filed under section 5.5 of this chapter must contain information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter. Failure to comply with a statement of benefits approved before July 1, 1991, may not be a basis for rejecting a deduction application.

(b) This subsection applies to a property owner whose statement of benefits was approved under section 4.5 of this chapter after June 30, 1991. In addition to the requirements of section 5.5(b) of this chapter, a property owner who files a deduction application under section 5.5 of this chapter must provide the county auditor and the designating body with information showing the extent to which there has been compliance with the statement of benefits approved under section 4.5 of this chapter.

(c) Notwithstanding IC 5-14-3 and IC 6-1.1-35-9, the following information is a public record if filed under this section:

(1) The name and address of the taxpayer.

(2) The location and description of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** for which the deduction was granted.

(3) Any information concerning the number of employees at the facility where the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology**

equipment is located, including estimated totals that were provided as part of the statement of benefits.

(4) Any information concerning the total of the salaries paid to those employees, including estimated totals that were provided as part of the statement of benefits.

(5) Any information concerning the amount of solid waste or hazardous waste converted into energy or other useful products by the new manufacturing equipment.

(6) Any information concerning the assessed value of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** including estimates that were provided as part of the statement of benefits.

(d) The following information is confidential if filed under this section:

(1) Any information concerning the specific salaries paid to individual employees by the owner of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

(2) Any information concerning the cost of the new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both.~~ **new logistical distribution equipment, or new information technology equipment.**

SECTION 10. IC 6-1.1-12.1-5.8, AS AMENDED BY P.L.256-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5.8. In lieu of providing the statement of benefits required by section 3 or 4.5 of this chapter and the additional information required by section 5.1 or 5.6 of this chapter, the designating body may, by resolution, waive the statement of benefits if the designating body finds that the purposes of this chapter are served by allowing the deduction and the property owner has, during the thirty-six (36) months preceding the first assessment date to which the waiver would apply, installed new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** or developed or rehabilitated property at a cost of at least ten million dollars ($10,000,000) as determined by the assessor of the township in which the property is located.

SECTION 11. IC 6-1.1-12.1-8, AS AMENDED BY P.L.90-2002, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) Not later than December 31 of each year, the county auditor shall publish the following in a newspaper of general interest and readership and not one of limited subject matter:

(1) A list of the approved deduction applications that were filed under this chapter during that year. The list must contain the following:

(A) The name and address of each person approved for or receiving a deduction that was filed for during the year.

(B) The amount of each deduction that was filed for during the year.

(C) The number of years for which each deduction that was filed for during the year will be available.

(D) The total amount for all deductions that were filed for and granted during the year.

(2) The total amount of all deductions for real property that were in effect under section 3 of this chapter during the year.

(3) The total amount of all deductions for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** that were in effect under section 4.5 of this chapter during the year.

(b) The county auditor shall file the information described in subsection (a)(2) and (a)(3) with the department of local government finance not later than December 31 of each year.

SECTION 12. IC 6-1.1-12.1-11.3, AS AMENDED BY P.L.245-2003, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 11.3. (a) This section applies only to the following requirements:

(1) Failure to provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter.

(2) Failure to submit the completed statement of benefits form to the designating body before the initiation of the redevelopment or rehabilitation or the installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** for which the person desires to claim a deduction under this chapter.

(3) Failure to designate an area as an economic revitalization area before the initiation of the:

(A) redevelopment;

(B) installation of new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment;** or

(C) rehabilitation;

for which the person desires to claim a deduction under this chapter.

(4) Failure to make the required findings of fact before designating an area as an economic revitalization area or authorizing a deduction for new manufacturing equipment, ~~or~~ new research and development equipment, ~~or both,~~ **new logistical distribution equipment, or new information technology equipment** under section 2, 3, or 4.5 of this chapter.

(5) Failure to file a:

(A) timely; or

(B) complete;

deduction application under section 5 or 5.4 of this chapter.

(b) This section does not grant a designating body the authority to exempt a person from filing a statement of benefits or exempt a designating body from making findings of fact.

(c) A designating body may by resolution waive noncompliance described under subsection (a) under the terms and conditions specified in the resolution. Before adopting a waiver under this subsection, the designating body shall conduct a public hearing on the waiver.

SECTION 13. IC 6-1.1-22-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The county treasurer shall either:

(1) mail to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book a statement of current and delinquent taxes and special assessments; or

(2) transmit by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records a statement of current and delinquent taxes and special assessments.

(b) The county treasurer may include the following in the statement:

(1) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(2) Information designed to inform the taxpayer or mortgagee clearly and accurately of the manner in which the taxes billed in the tax statement are to be used.

A form used and the method by which the statement and information, if any, are transmitted must be approved by the state board of accounts. The county treasurer may mail or transmit the statement and information, if any, one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment.

(c) All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

(d) Before July 1, 2004, the department of local government finance shall designate five (5) counties to participate in a pilot program to implement the requirements of subsection (e). The department shall immediately notify the county treasurer, county auditor, and county assessor in writing of the designation under this subsection. The legislative body of a county not designated for participation in the pilot program may adopt an ordinance to implement the requirements of subsection (e). The legislative body shall submit a copy of the ordinance to the department of local government finance, which shall monitor the county's implementation of the requirements of subsection (e) as if the county were a participant in the pilot program. The requirements of subsection (e) apply:

(1) only in:

(A) a county designated to participate in a pilot program under this subsection, for property taxes first due and payable after December 31, 2004, and before January 1, 2008; or

(B) a county adopting an ordinance under this subsection, for property taxes first due and payable after December 31, 2003, or December 31, 2004 (as determined in the ordinance), and before January 1, 2008; and

(2) in all counties for taxes first due and payable after December 31, 2007.

(e) Subject to subsection (d), regardless of whether a county treasurer transmits a statement of current and delinquent taxes and special assessments to a person liable for the taxes under subsection (a)(1) or to a mortgagee under subsection (a)(2), the county treasurer shall mail the following information to the last known address of each person liable for the property taxes or special assessments or to the last known address of the most recent owner shown in the transfer book. The county treasurer shall mail the information not later than the date the county treasurer transmits a statement for the property under subsection (a)(1) or (a)(2). The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included on the form. The information that must be provided is the following:

(1) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(2) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(3) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(4) An explanation of the following:

(A) The homestead credit and all property tax deductions.

(B) The procedure and deadline for filing for the homestead credit and each deduction.

(C) The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

(D) The forms that must be filed for an appeal or petition described in clause (C).

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(5) A checklist that shows:

(A) the homestead credit and all property tax deductions; and

(B) whether the homestead credit and each property tax deduction applies in the current statement for the property transmitted under subsection (a)(1) or (a)(2).

(f) The information required to be mailed under subsection (e) must be simply and clearly presented and understandable to the average individual.

(g) A county that incurs:

(1) initial computer programming costs directly related to implementation of the requirements of subsection (e); or

(2) printing costs directly related to mailing information under subsection (e);

shall submit an itemized statement of the costs to the department of local government finance for reimbursement from the state. The treasurer of state shall pay a claim approved by the department of local government finance and submitted under this section on a warrant of the auditor of state. However, the treasurer of state may not pay any additional claims under this subsection after the total amount of claims paid reaches fifty thousand dollars ($50,000).

SECTION 14. IC 6-1.1-33.5-2, AS AMENDED BY HEA 1032-2004, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The division of data analysis shall do the following:

(1) Compile an electronic data base that includes the following:

(A) The local government data base.

(B) Information on sales of real and personal property, including **nonconfidential** information from sales disclosure forms filed under IC 6-1.1-5.5.

(C) Personal property assessed values and data entries on personal property return forms.

(D) Real property assessed values and data entries on real property assessment records.

(E) Information on property tax exemptions, deductions, and credits.

(F) Any other data relevant to the accurate determination of real property and personal property tax assessments.

(2) Make available to each county and township software that permits the transfer of the data described in subdivision (1) to the division in a uniform format through a secure connection over the Internet.

(3) Analyze the data compiled under this section for the purpose of performing the functions under section 3 of this chapter.

(4) Conduct continuing studies of personal and real property tax deductions, abatements, and exemptions used throughout Indiana. The division of data analysis shall, before May 1 of each even-numbered year, report on the studies at a meeting of the budget committee and submit a report on the studies to the legislative services agency for distribution to the members of the legislative council. The report must be in an electronic format under IC 5-14-6.

SECTION 15. IC 24-4.5-3-701 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 701. With respect to a consumer loan secured by an interest in land used or expected to be used as the principal dwelling of the debtor, a lender shall comply with IC 6-1.1-12-43.**

SECTION 16. IC 25-34.1-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this article:

"Person" means an individual, a partnership, a corporation, or a limited liability company.

"Commission" means the Indiana real estate commission.

"Real estate" means any right, title, or interest in real property.

"Broker" means a person who, for consideration, sells, buys, trades, exchanges, options, leases, rents, manages, lists, or appraises real estate or negotiates or offers to perform any of those acts.

"Salesperson" means an individual, other than a broker, who, for consideration and in association with and under the auspices of a

broker, sells, buys, trades, exchanges, options, leases, rents, manages, or lists real estate or negotiates or offers to perform any of those acts.

"Broker-salesperson" means an individual broker who is acting in association with and under the auspices of another broker.

"Principal broker" means a broker who is not acting as a broker-salesperson.

"License" means a broker or salesperson license issued under this article and which is not expired, suspended, or revoked.

"Licensee" means a person who holds a license issued under this article. The term does not include a person who holds a real estate appraiser license or certificate issued under the real estate appraiser licensure and certification program established under IC 25-34.1-3-8.

"Course approval" means approval of a broker or salesperson course granted under this article which is not expired, suspended, or revoked.

"Licensing agency" means the Indiana professional licensing agency established by IC 25-1-6-3.

"Board" refers to the real estate appraiser licensure and certification board established under IC 25-34.1-8-1.

"Commercial real estate" means a parcel of real estate other than real estate containing one (1) to four (4) residential units. This term does not include single family residential units such as:

(1) condominiums;

(2) townhouses;

(3) manufactured homes; or

(4) homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even if those units are part of a larger building or parcel of real estate containing more than four (4) residential units.

"Out-of-state commercial broker" includes a person, a partnership, an association, a limited liability company, a limited liability partnership, or a corporation that is licensed to do business as a broker in a jurisdiction other than Indiana.

"Out-of-state commercial salesperson" includes a person affiliated with an out-of-state commercial broker who is not licensed as a salesperson under this article.

SECTION 17. IC 25-34.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in:

(1) subsection (b); ~~and~~

(2) section 8(i) of this chapter; **and**

(3) section 11 of this chapter;

no person shall, for consideration, sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate or negotiate or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana, without a license.

(b) This article does not apply to:

(1) acts of an attorney which constitute the practice of law;

(2) performance by a public official of acts authorized by law;

(3) acts of a receiver, executor, administrator, commissioner, trustee, or guardian, respecting real estate owned or leased by the person represented, performed pursuant to court order or a will;

(4) rental, for periods of less than thirty (30) days, of rooms, lodging, or other accommodations, by any commercial hotel, motel, tourist facility, or similar establishment which regularly furnishes such accommodations for consideration;

(5) rental of residential apartment units by an individual employed or supervised by a licensed broker;

(6) rental of apartment units which are owned and managed by a person whose only activities regulated by this article are in relation to a maximum of twelve (12) apartment units which are located on a single parcel of real estate or on contiguous parcels of real estate;

(7) referral of real estate business by a broker, salesperson, or referral company which is licensed under the laws of another state, to or from brokers and salespersons licensed by this state;

(8) acts performed by a person in relation to real estate owned by that person unless that person is licensed under this article, in which case the article does apply to him;

(9) acts performed by a regular, full-time, salaried employee of a person in relation to real estate owned or leased by that person unless the employee is licensed under this article, in which case the article does apply to him;

(10) conduct of a sale at public auction by a licensed auctioneer pursuant to IC 25-6.1;

(11) sale, lease, or other transfer of interests in cemetery lots; and

(12) acts of a broker or salesperson, who is licensed under the laws of another state, which are performed pursuant to, and under restrictions provided by, written permission that is granted by the commission in its sole discretion, except that such a person shall comply with the requirements of section 5(c) of this chapter.

SECTION 18. IC 25-34.1-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public.

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana; however, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one hundred twenty (120) days after passing the commission examination, submit the license fee of fifty dollars ($50). If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

(1) have as partners only individuals who are licensed brokers;

(2) have at least one (1) partner who:

(A) is a resident of Indiana; **or**

(B) is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and

(4) submit the license fee of fifty dollars ($50) and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).

(c) To obtain a broker license, a corporation must:

(1) have a licensed broker:

(A) residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions; **or**

(B) who is a principal broker under IC 25-34.1-4-3(b);

(2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and

(3) submit the license fee of fifty dollars ($50), an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state of Indiana.

(d) To obtain a broker license, a limited liability company must:

(1) if a member-managed limited liability company:

(A) have as members only individuals who are licensed

brokers; and

(B) have at least one (1) member who is:

(i) a resident of Indiana; or

(ii) a principal broker under IC 25-34.1-4-3(b);

(2) if a manager-managed limited liability company, have a licensed broker:

(A) residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the company in real estate transactions; **or**

(B) who is a principal broker under IC 25-34.1-4-3(b);

(3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and

(4) submit the license fee of fifty dollars ($50) and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one hundred twenty (120) days after the date of the notice of passing the examination or the date a license is issued.

(h) A broker license expires, for individuals, at midnight, December 31 and, for corporations, partnerships, and limited liability companies at midnight, June 30 of the next even-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee of fifty dollars ($50). An expired license may be reinstated within one hundred twenty (120) days after expiration by payment of all unpaid license fees together with twenty dollars ($20). If the license is renewed within eighteen (18) months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars ($100) plus any unpaid license fees. If a broker fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless the broker again complies with the requirements of subsection (a)(4), (a)(5), and (a)(6).

(i) A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

SECTION 19. IC 25-34.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A resident of another state, meeting the requirements of this chapter, may be licensed.

~~(b) A nonresident individual broker may act only as a broker-salesperson.~~

~~(c)~~ **(b)** A nonresident salesperson or broker shall file with the commission a written consent that any action arising out of the conduct of the licensee's business in Indiana may be commenced in any county of this state in which the cause of action accrues. The consent shall provide that service of process may be made upon the commission, as agent for the nonresident licensee, and that service in accordance with the Indiana Rules of Trial Procedure subjects the licensee to the jurisdiction of the courts in that county.

~~(d)~~ **(c)** The requirements of this section may be waived for individuals of or moving from other jurisdictions if the following requirements are met:

(1) The jurisdiction grants the same privilege to the licensees of this state.

(2) The individual is licensed in that jurisdiction.

(3) The licensing requirements of that jurisdiction are substantially similar to the requirements of this chapter.

(4) The applicant states that the applicant has studied, is familiar with, and will abide by the statutes and rules of this state.

SECTION 20. IC 25-34.1-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. (a) An out-of-state commercial broker, for a fee, commission, or other valuable consideration, or in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, may perform acts with respect to commercial real estate that require a license under this article without a license under this article, if the out-of-state commercial broker does all of the following:**

(1) Works in cooperation with a broker who holds a valid license issued under this article.

(2) Enters into a written agreement with the broker described in subdivision (1) that includes the terms of cooperation and compensation and a statement that the out-of-state commercial broker and the broker's agents will comply with the laws of this state.

(3) Furnishes the broker described in subdivision (1) with a copy of the out-of-state commercial broker's current certificate of good standing or other proof of a license in good standing from a jurisdiction where the out-of-state commercial broker maintains a valid real estate license.

(4) Files an irrevocable written consent with the commission that legal actions arising out of the conduct of the out-of-state commercial broker or the broker's agents may be commenced against the out-of-state commercial broker in a court with jurisdiction in a county in Indiana in which the cause of action accrues.

(5) Advertises in compliance with state law and includes the name of the broker described in subdivision (1) in all advertising.

(6) Deposits all escrow funds, security deposits, and other money received by either the out-of-state commercial broker or the broker described in subdivision (1) in a trust account maintained by the broker described in subdivision (1).

(7) Deposits all documentation required by this section and records and documents related to the transaction with the broker described in subdivision (1).

(b) The broker described in subsection (a)(1) shall retain the documentation that is provided by the out-of-state commercial broker as required under this section, and the records and documents related to a transaction, for at least five (5) years.

(c) An out-of-state commercial salesperson may perform acts with respect to commercial real estate that require a salesperson to be licensed under this article without a license under this article if the out-of-state commercial salesperson meets all of the following requirements:

(1) The out-of-state commercial salesperson:

(A) is licensed with and works under the direct supervision of the out-of-state commercial broker;

(B) provides the broker described in subsection (a)(1) with a copy of the out-of-state commercial salesperson's current certificate of good standing or other proof of a

license in good standing from the jurisdiction where the out-of-state commercial salesperson maintains a valid real estate license in connection with the out-of-state commercial broker; and

(C) collects money, including:

(i) commissions;

(ii) deposits;

(iii) payments;

(iv) rentals; or

(v) escrow funds;

only in the name of and with the consent of the out-of-state commercial broker under whom the out-of-state commercial salesperson is licensed.

(2) The out-of-state commercial broker described in subdivision (1)(A) meets all of the requirements of subsection (a).

(d) A person licensed in a jurisdiction where there is not a legal distinction between a real estate broker license and a real estate salesperson license must meet the requirements of subsection (a) before engaging in an act that requires a license under this article.

(e) An out-of-state commercial broker or salesperson acting under this section shall file a written consent as provided in section 5(b) of this chapter.

SECTION 21. IC 25-34.1-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) Except as provided in subsection (b),** each individual who is a principal broker or is designated by a partnership, corporation, or a limited liability company pursuant to section 2 of this chapter shall be a resident of Indiana.

(b) A nonresident:

(1) individual broker; or

(2) individual designated by a partnership, corporation, or limited liability company under section 2 of this chapter;

may be a principal broker if all the licensees affiliated with the broker, partnership, corporation, or limited liability company are not residents of Indiana.

SECTION 22. IC 27-1-15.6-4, AS AMENDED BY P.L.129-2003, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) As used in this section, "insurer" does not include an officer, director, employee, subsidiary, or affiliate of an insurer.

(b) This chapter does not require an insurer to obtain an insurance producer license.

(c) The following are not required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an insurance producer, if the officer, director, or employee does not receive any commission on policies written or sold to insure risks that reside, are located, or are to be performed in Indiana, and if:

(A) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, group or blanket accident and sickness insurance;

(B) enrolling individuals under plans;

(C) issuing certificates under plans or otherwise assisting in administering plans; or

(D) performing administrative services related to mass marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

(A) An employer or association.

(B) An officer, director, or employee of an employer or association.

(C) The trustees of an employee trust plan.

(4) An:

(A) employee of an insurer; or

(B) organization employed by insurers;

that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that:

(A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

(8) An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

(9) An individual who:

(A) furnishes only title insurance rate information at the request of a consumer; and

(B) does not discuss the terms or conditions of a title insurance policy.

SECTION 23. IC 27-1-15.6-6, AS AMENDED BY P.L.1-2002, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) A person applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

(b) Before approving an application submitted under subsection (a), the commissioner must find that the individual meets the following requirements:

(1) Is at least eighteen (18) years of age.

(2) Has not committed any act that is a ground for denial, suspension, or revocation under section 12 of this chapter.

(3) Has completed, if required by the commissioner, a certified prelicensing course of study for the lines of authority for which the individual has applied.

(4) Has paid the nonrefundable fee set forth in section 32 of this chapter.

(5) Has successfully passed the examinations for the lines of authority for which the individual has applied.

(c) An applicant for a resident insurance producer license must file with the commissioner on a form prescribed by the commissioner a certification of completion certifying that the applicant has completed an insurance producer program of study certified by the commissioner under IC 27-1-15.7-5 not more than six (6) months before the application for the license is received by the commissioner. This subsection applies only to licensees seeking qualification in the lines of insurance described in sections 7(a)(1) through 7(a)(6) **and 7(a)(8)** of this chapter.

(d) A business entity, before acting as an insurance producer, is required to obtain an insurance producer license. The application submitted by a business entity under this subsection must be made using the uniform business entity application. Before approving the application, the commissioner must find that the business entity has:

(1) paid the fees required under section 32 of this chapter; and

(2) designated an individual licensed producer responsible for the business entity's compliance with the insurance laws and administrative rules of Indiana.

(e) The commissioner may require any documents reasonably necessary to verify the information contained in an application submitted under this subsection.

(f) An insurer that sells, solicits, or negotiates any form of limited line credit insurance shall provide a program of instruction approved by the commissioner to each individual whose duties will include selling, soliciting, or negotiating limited line credit insurance.

SECTION 24. IC 27-1-15.6-7, AS ADDED BY P.L.132-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) Unless denied licensure under section 12 of this chapter, a person who has met the requirements of sections 5 and 6 of this chapter shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:

(1) Life — insurance coverage on human lives, including benefits of endowment and annuities, that may include benefits in the event of death or dismemberment by accident and benefits for disability income.

(2) Accident and health or sickness — insurance coverage for sickness, bodily injury, or accidental death that may include benefits for disability income.

(3) Property — insurance coverage for the direct or consequential loss of or damage to property of every kind.

(4) Casualty — insurance coverage against legal liability, including liability for death, injury, or disability, or for damage to real or personal property.

(5) Variable life and variable annuity products — insurance coverage provided under variable life insurance contracts and variable annuities.

(6) Personal lines — property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(7) Credit — limited line credit insurance.

(8) **Title — insurance coverage against loss or damage on account of encumbrances on or defects in the title to real estate.**

(9) Any other line of insurance permitted under Indiana laws or administrative rules.

(b) A person who requests and receives qualification under subsection (a)(5) for variable life and annuity products:

(1) is considered to have requested; and

(2) shall receive;

a life qualification under subsection (a)(1).

(c) A resident insurance producer may not request separate qualifications for property insurance and casualty insurance under subsection (a).

(d) An insurance producer license remains in effect unless revoked or suspended, as long as the renewal fee set forth in section 32 of this chapter is paid and the educational requirements for resident individual producers are met by the due date.

(e) An individual insurance producer who:

(1) allows the individual insurance producer's license to lapse; and

(2) completed all required continuing education before the license expired;

may, not more than twelve (12) months after the expiration date of the license, reinstate the same license without the necessity of passing a written examination. A penalty in the amount of three (3) times the unpaid renewal fee shall be required for any renewal fee received after the expiration date of the license. However, the department of insurance may waive the penalty if the renewal fee is received not more than thirty (30) days after the expiration date of the license.

(f) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance may request a waiver of the license renewal procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with the license renewal procedures.

(g) An insurance producer license shall contain the licensee's name, address, personal identification number, date of issuance, lines of authority, expiration date, and any other information the commissioner considers necessary.

(h) A licensee shall inform the commissioner of a change of address not more than thirty (30) days after the change by any means acceptable to the commissioner. The failure of a licensee to timely inform the commissioner of a change in legal name or address shall result in a penalty under section 12 of this chapter.

(i) To assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC), or any affiliates or subsidiaries that the NAIC oversees, to perform ministerial functions, including the collection of fees related to producer licensing, that the commissioner and the nongovernmental entity consider appropriate.

(j) The commissioner may participate, in whole or in part, with the NAIC or any affiliate or subsidiary of the NAIC in a centralized insurance producer license registry through which insurance producer licenses are centrally or simultaneously effected for states that require an insurance producer license and participate in the centralized insurance producer license registry. If the commissioner determines that participation in the centralized insurance producer license registry is in the public interest, the commissioner may adopt rules under IC 4-22-2 specifying uniform standards and procedures that are necessary for participation in the registry, including standards and procedures for centralized license fee collection.

SECTION 25. IC 27-1-15.7-2, AS AMENDED BY P.L.1-2002, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) **Except as provided in subsection (b),** to renew a license issued under IC 27-1-15.6:

(1) a resident insurance producer must complete at least forty (40) hours of credit in continuing education courses; and

(2) a resident limited lines producer must complete at least ten (10) hours of credit in continuing education courses.

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) **To renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least fourteen (14) hours of credit in continuing education courses related to the business of title insurance with at least four (4) hours of instruction in a structured setting or comparable self-study concerning:**

(1) ethical practices in the marketing and selling of title insurance;

(2) title insurance underwriting;

(3) escrow issues; and

(4) principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title

insurance or any aspect of real property law.

(c) The following limited lines producers are not required to complete continuing education courses to renew a license under this chapter:

(1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).

(2) A limited line credit insurance producer.

~~(c)~~ **(d)** To satisfy the requirements of subsection (a) **or (b),** a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

(1) after the effective date of the licensee's last renewal of a license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

~~(d)~~ **(e)** If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than forty (40) hours of credit in continuing education courses to renew the license.

~~(e)~~ **(f)** Except as provided in subsection ~~(f),~~ **(g),** a licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 4 of this chapter.

~~(f)~~ **(g)** A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.

~~(g)~~ **(h)** When a licensee renews a license issued under this chapter, the licensee must submit:

(1) a continuing education statement that:

(A) is in a format authorized by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and

(2) any other information required by the commissioner.

~~(h)~~ **(i)** A continuing education statement submitted under subsection ~~(g)~~ **(h)** may be reviewed and audited by the department.

~~(i)~~ **(j)** A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

SECTION 26. IC 27-1-15.7-5, AS ADDED BY P.L.132-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) To qualify as a certified prelicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following criteria:

(1) Be conducted or developed by an:

(A) insurance trade association;

(B) accredited college or university;

(C) educational organization certified by the insurance producer education and continuing education advisory council; or

(D) insurance company licensed to do business in Indiana.

(2) Provide for self-study or instruction provided by an approved instructor in a structured setting, as follows:

(A) For life insurance producers, not less than twenty-four (24) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana; and

(iii) principles of life insurance.

(B) For health insurance producers, not less than twenty-four (24) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana; and

(iii) principles of health insurance.

(C) For life and health insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana;

(iii) principles of life insurance; and

(iv) principles of health insurance.

(D) For property and casualty insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana;

(iii) principles of property insurance; and

(iv) principles of liability insurance.

(E) For personal lines producers, a minimum of twenty-four (24) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana; and

(iii) principles of property and liability insurance applicable to coverages sold to individuals and families for primarily noncommercial purposes.

(F) For title insurance producers, not less than ten (10) hours of instruction in a structured setting or comparable self-study on:

(i) ethical practices in the marketing and selling of title insurance;

(ii) requirements of the insurance laws and administrative rules of Indiana;

(iii) principles of title insurance, including underwriting and escrow issues; and

(iv) principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

(3) Instruction provided in a structured setting must be provided only by individuals who meet the qualifications established by the commissioner under subsection (b).

(b) The commissioner, after consulting with the insurance producer education and continuing education advisory council, shall adopt rules under IC 4-22-2 prescribing the criteria that a person must meet to render instruction in a certified prelicensing course of study.

(c) The commissioner shall adopt rules under IC 4-22-2 prescribing the subject matter that an insurance producer program of study must cover to qualify for certification as a certified prelicensing course of study under this section.

(d) The commissioner may make recommendations that the commissioner considers necessary for improvements in course materials.

(e) The commissioner shall designate a program of study that meets the requirements of this section as a certified prelicensing course of study for purposes of IC 27-1-15.6-6.

(f) The commissioner may, after notice and opportunity for a hearing, withdraw the certification of a course of study that does not maintain reasonable standards, as determined by the commissioner for the protection of the public.

(g) Current course materials for a prelicensing course of study that is certified under this section must be submitted to the commissioner upon request, but not less frequently than once every three (3) years.

SECTION 27. IC 27-1-15.7-6, AS ADDED BY P.L.132-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this section, "council" refers to the insurance producer education and continuing education advisory council created under subsection (b).

(b) The insurance producer education and continuing education advisory council is created within the department. The council consists of the commissioner and ~~twelve (12)~~ **thirteen (13)** members appointed by the governor as follows:

(1) Two (2) members recommended by the Professional Insurance Agents of Indiana.

(2) Two (2) members recommended by the Independent Insurance Agents of Indiana.

(3) Two (2) members recommended by the Indiana Association of Insurance and Financial Advisors.

(4) Two (2) representatives of direct writing or exclusive producer's insurance companies.

(5) One (1) representative of the Association of Life Insurance Companies.

(6) One (1) member recommended by the Insurance Institute of Indiana.

(7) **One (1) member recommended by the Indiana Land Title Association.**

(8) Two (2) other individuals.

(c) Members of the council serve for a term of three (3) years. Members may not serve more than two (2) consecutive terms.

(d) Before making appointments to the council, the governor must:

(1) solicit; and

(2) select appointees to the council from;

nominations made by organizations and associations that represent individuals and corporations selling insurance in Indiana.

(e) The council shall meet at least semiannually.

(f) A member of the council is entitled to the minimum salary per diem provided under IC 4-10-11-2.1(b). A member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the state department of administration and approved by the state budget agency.

(g) The council shall review and make recommendations to the commissioner with respect to course materials, curriculum, and credentials of instructors of each prelicensing course of study for which certification by the commissioner is sought under section 5 of this chapter and shall make recommendations to the commissioner with respect to educational requirements for insurance producers.

(h) A member of the council or designee of the commissioner shall be permitted access to any classroom while instruction is in progress to monitor the classroom instruction.

(i) The council shall make recommendations to the commissioner concerning the following:

(1) Continuing education courses for which the approval of the commissioner is sought under section 4 of this chapter.

(2) Rules proposed for adoption by the commissioner that would affect continuing education.

SECTION 28. [EFFECTIVE JULY 1, 2004] **(a) IC 27-1-15.7-2, as amended by this act, applies only to a limited lines producer with a title qualification who renews the limited lines producer's license issued under IC 27-1-15.6 after December 31, 2005.**

(b) IC 27-1-15.7-5, as amended by this act, does not apply to an insurance producer program of study until January 1, 2005.

(c) This SECTION expires July 1, 2010.

SECTION 29. IC 28-1-5-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16. With respect to a residential real property financing or refinancing, a corporation shall comply with IC 6-1.1-12-43.**

SECTION 30. IC 28-5-1-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26. With respect to a residential real property financing or refinancing, an industrial loan and investment company shall comply with IC 6-1.1-12-43.**

SECTION 31. IC 28-6.1-6-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 25. With respect to a residential real property financing or refinancing, a savings bank shall comply with IC 6-1.1-12-43.**

SECTION 32. IC 28-7-1-38 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 38. With respect to a residential real property financing or refinancing, a credit union shall comply with IC 6-1.1-12-43.**

SECTION 33. IC 34-30-2-16.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 16.6. IC 6-1.1-12-43 (Concerning a closing agent's failure to provide a form concerning property tax benefits).**

SECTION 34. IC 36-4-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Municipalities are classified according to their status and population as follows:

STATUS AND POPULATION	CLASS
Cities of ~~250,000~~ **600,000** or more	First class cities
Cities of 35,000 to ~~249,999~~ **599,999**	Second class cities
Cities of less than 35,000	Third class cities
Other municipalities of any population	Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-five thousand (35,000) remains a second class city even though its population decreases to less than thirty-five thousand (35,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

SECTION 35. IC 36-7-31.3-8, AS AMENDED BY P.L.178-2002, SECTION 126, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) ~~Except as provided in subsection (d),~~ A designating body may designate as part of a professional sports and convention development area any facility that is:

(1) owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used by a professional sports franchise for practice or competitive sporting events; or

(2) owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11, and used as one (1) of the following:

(A) A facility used principally for convention or tourism related events serving national or regional markets.

(B) An airport.

(C) A museum.

(D) A zoo.

(E) A facility used for public attractions of national significance.

(F) A performing arts venue.

(G) A county courthouse registered on the National Register of Historic Places.

A facility may not include a private golf course or related improvements. The tax area may include only facilities described in this section and any parcel of land on which a facility is located. An area may contain noncontiguous tracts of land within the city, county, or school corporation.

(b) Except for a tax area that is located in a city having a population of:

(1) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(2) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

a tax area must include at least one (1) facility described in subsection (a)(1).

(c) Except as provided in subsection (d), a tax area may contain other facilities not owned by the designating body if:

(1) the facility is owned by a city, the county, a school corporation, or a board established under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11; and

(2) an agreement exists between the designating body and the owner of the facility specifying the distribution and uses of the covered taxes to be allocated under this chapter.

~~(d) In a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), the designating body may designate only one (1) facility as part of a tax area. The facility designated as part of the tax area may not be a facility described in subsection (a)(1).~~

SECTION 36. IC 36-7-31.3-9, AS AMENDED BY P.L.178-2002, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A tax area must be initially established by resolution:

(1) except as provided in subdivision (2) before July 1, 1999; or

(2) ~~in the case of a second class city,~~ before ~~July 1, 2003;~~

January 1, 2005:

(A) in the case of a second class city; or

(B) the city of Marion;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. A tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 37. IC 36-7-31.3-19, AS AMENDED BY P.L.178-2002, SECTION 131, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The resolution establishing the tax area must designate the use of the funds. The funds are to be used only for the following:

(1) Except in a tax area in a city having a population of:

(A) more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); or

(B) more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used by a professional sports franchise for practice or competitive sporting events. In a tax area to which this subdivision applies, funds may also be used for a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a)(2) of this chapter.

(2) In a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a) of this chapter.

(3) In a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section **8(a)(1) or** 8(a)(2) of this chapter.

(4) The financing or refinancing of a capital improvement described in subdivision (1), (2), or (3) or the payment of lease payments for a capital improvement described in subdivision (1), (2), or (3).

SECTION 38. [EFFECTIVE UPON PASSAGE] **(a) Except as provided in subsection (b), IC 6-1.1-22-8, as amended by this act, applies only to statements prepared and mailed for property taxes and special assessments first due and payable after December 31, 2004.**

(b) IC 6-1.1-22-8, as amended by this act, applies to statements prepared and mailed for property taxes and special assessments first due and payable in a county after December 31, 2003, if that date is specified in an ordinance adopted by the county under IC 6-1.1-22-8(d), as amended by this act.

SECTION 39. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "commission" refers to the property tax replacement study commission established by subsection (b).**

(b) The property tax replacement study commission is established.

(c) The commission consists of twenty-four (24) members who are appointed as follows:

(1) Twelve (12) members appointed by the president pro tempore of the senate as follows:

(A) One (1) member representing manufacturing.

(B) One (1) member representing small business.

(C) One (1) member representing farmers.

(D) One (1) member representing home builders.

(E) One (1) member representing realtors.

(F) One (1) member who is a member of a city fiscal body.

(G) One (1) member who is a mayor.

(H) One (1) member who is a township trustee.

(I) Two (2) members of the senate, not more than one (1) of whom may be affiliated with the same political party.

(J) Two (2) members, without regard to representation or affiliation.

(2) Twelve (12) members appointed by the speaker of the house of representatives as follows:

(A) One (1) member representing business.

(B) One (1) member representing labor.

(C) One (1) member representing senior citizens.

(D) One (1) member representing professional educators.

(E) One (1) member representing banking.

(F) One (1) member who is a parent of a child enrolled in kindergarten through grade 12.

(G) One (1) member who is a school board member.

(H) One (1) member who is a member of a county fiscal body.

(I) Two (2) members of the house of representatives, not more than one (1) of whom may be affiliated with the same political party.

(J) Two (2) members, without regard to representation or affiliation.

Not more than twelve (12) members of the commission may be from the same political party.

(d) Except for the members appointed under subsection (c)(1)(I) and (c)(2)(I), the members appointed under subsection (c):

(1) may not be members of the general assembly;

(2) must own property subject to assessment under IC 6-1.1; and

(3) have knowledge and experience in the areas of taxation and government finance or school finance.

Each member must be appointed not later than thirty (30) days after the effective date of this act.

(e) The president pro tempore of the senate and the speaker of the house of representatives shall each appoint a cochairperson of the commission.

(f) The commission shall study the following proposals:

(1) Eliminating approximately fifty percent (50%) of net property tax levies.

(2) Eliminating approximately seventy-five percent (75%) of net property tax levies.

(3) Eliminating approximately one hundred percent (100%) of net property tax levies.

The study required under this subsection must identify revenue sources capable of replacing property taxes and providing sufficient revenue to maintain essential government services.

(g) The commission is authorized to meet throughout the year at the call of the cochairpersons. The cochairpersons must call the first meeting of the commission not later than forty-five (45) days after the effective date of this act. The commission shall submit status reports concerning the commission's activities to the legislative council during June and September of 2004.

(h) Before December 1, 2004, the commission shall submit to the legislative council an executive summary of each of the possible alternatives for achieving the property tax elimination proposals described in subsection (f). As soon as possible after submission of the executive summary, the commission shall supplement the executive summary with a final report to the legislative council covering the following matters:

(1) The commission's schedule of meetings and the public testimony received at those meetings.

(2) The commission's findings and recommendations, including any recommendations for statutory changes.

(3) A fiscal analysis of the cost to the state, units of local government, and school corporations to implement:

(A) the alternatives for property tax elimination presented in the commission's executive summary; and

(B) the commission's recommendations.

(i) Except as otherwise provided in this SECTION, the commission shall operate under the rules and procedures of the legislative council.

(j) The affirmative votes of at least thirteen (13) members of the commission are required for the commission to take action on any measure.

(k) Members of the commission are entitled to per diem and travel allowances in the same amounts as the legislative council provides for members of interim study committees.

(l) The legislative services agency shall provide staff support for the commission as directed by a subcommittee established by the legislative council.

(m) The status reports, executive summary, and final report required by this SECTION must be in an electronic format under IC 5-14-6.

(n) This SECTION expires January 1, 2005.

SECTION 40. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the local government efficiency and financing study commission established by this SECTION.

(b) As used in this SECTION, "municipal corporation" means a county, city, town, township, library district, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or other separate local governmental entity that may sue and be sued.

(c) There is established the local government efficiency and financing study commission. The commission shall study the following:

(1) Local government financing, structure, and methods of providing necessary services to the public to determine the most appropriate and efficient means of providing services.

(2) Merger and consolidation of municipal corporations and the sharing of services among municipal corporations to improve the efficiency of local government.

(3) Creation of local charter governments and the restructuring of municipal corporations, including a review of Senate Bill 225-2004, which proposed allowing local governments to establish charter governments.

(4) The efforts of Fort Wayne and Allen County to restructure municipal and county government.

(5) The ongoing study conducted by Vanderburgh County concerning the restructuring of local government.

(6) The efforts of other states to consolidate local government.

(7) Any other issue as determined by the commission.

(d) The commission consists of the following twenty-three (23) members:

(1) Five (5) members appointed by the governor as follows:

(A) One (1) member who is the mayor of a third class city.

(B) One (1) member representing business.

(C) One (1) member representing labor.

(D) One (1) member who is an economic development professional.

(E) One (1) member who is a public safety employee of a second class city.

(2) Four (4) members who are members of the senate, appointed by the president pro tempore of the senate. Not more than two (2) members may be of the same political party.

(3) Four (4) members who are members of the house of representatives, appointed by the speaker of the house of representatives. Not more than two (2) members may be of the same political party.

(4) Ten (10) members as follows:

(A) One (1) member who is a county commissioner appointed by the president pro tempore of the senate.

(B) One (1) member who is the mayor of a second class city appointed by the speaker of the house of representatives.

(C) One (1) member who is a member of a city council of a second class city appointed by the president pro tempore of the senate.

(D) One (1) member who is a member of a county council appointed by the speaker of the house of representatives.

(E) Two (2) members who are township trustees. One (1) member shall be appointed by the president pro tempore of the senate. One (1) member shall be appointed by the speaker of the house of representatives. The member appointed by the speaker of the house of representatives must be a trustee assessor.

(F) One (1) member, appointed by the speaker of the house of representatives, who is a member of a town legislative body.

(G) One (1) member, appointed by the president pro tempore of the senate, who is:

(i) an elected or appointed and a qualified township assessor; and

(ii) not a township trustee.

(H) One (1) member, appointed by the speaker of the house, who is a county assessor.

(I) One (1) member, appointed by the president pro tem of the senate, who is a member of a city council of a third class city.

(e) Not more than five (5) members appointed under subsection (d)(4) may be of the same political party.

(f) After the effective date of this act:

(1) the president pro tempore of the senate shall appoint the first chairperson of the commission from among the members of the commission who are legislators, for a term that expires December 1, 2004; and

(2) the speaker of the house of representatives shall appoint the first vice chairperson of the commission from among the members of the commission who are legislators, for a term that expires December 1, 2004.

(g) After November 30, 2004:

(1) the speaker of the house of representatives shall appoint the second commission chairperson from among the legislative members of the commission, for a term that expires December 1, 2005; and

(2) the president pro tempore of the senate shall appoint the second commission vice chairperson from among the legislative members of the commission, for a term that expires December 1, 2005.

(h) If a member of the commission who holds public office

ceases to hold the public office that the member held when appointed to the commission, the member vacates the member's seat on the commission.

(i) The commission shall operate under the policies governing study committees adopted by the legislative council.

(j) An affirmative vote of a majority of the voting members appointed to the commission is required for the commission to take action on any measure, including final reports.

(k) The commission shall annually submit a final report to the legislative council of the commission's recommendations and findings not later than December 1. The report to the legislative council must be in an electronic format under IC 5-14-6.

(l) This SECTION expires December 1, 2005.

SECTION 41. [EFFECTIVE UPON PASSAGE] **The general assembly finds that the city of Marion is subject to special circumstances that justify special legislation to allow the city of Marion to establish a tax area under IC 36-7-31.3-9, as amended by this act, before January 1, 2005.**

SECTION 42. **An emergency is declared for this act.**

(Reference is to EHB 1005 as reprinted February 18, 2004.)

RESKE	KENLEY
TURNER	LANANE
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1194–1; filed March 3, 2004, at 9:20 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1194 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 10-13-3-6, AS ADDED BY P.L.2-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) As used in this chapter, "criminal justice agency" means any agency or department of any level of government whose principal function is:

(1) the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders;

(2) the location of parents with child support obligations under 42 U.S.C. 653;

(3) the licensing and regulating of riverboat gambling operations; or

(4) the licensing and regulating of pari-mutuel horse racing operations.

(b) The term includes the following:

(1) The office of the attorney general.

(2) The Medicaid fraud control unit, for the purpose of investigating offenses involving Medicaid.

(3) A nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

(4) The division of family and children or a juvenile probation officer conducting a criminal history check (as defined in IC 31-9-2-29.7) under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

SECTION 2. IC 12-7-2-28, AS AMENDED BY P.L.34-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 28. "Child" means the following:

(1) For purposes of IC 12-13-15, the meaning set forth in IC 12-13-15-1.

(2) **For purposes of IC 12-13-15.1, the meaning set forth in IC 12-13-15.1-1.**

(3) For purposes of IC 12-17.2 and IC 12-17.4, an individual who is less than eighteen (18) years of age.

~~(3)~~ **(4)** For purposes of IC 12-26, the meaning set forth in IC 31-9-2-13(d).

SECTION 3. IC 12-7-2-76.7, AS ADDED BY P.L.34-2001, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 76.7. **(a)** "Emergency medical services", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-2.

(b) "Emergency medical services", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-2.

SECTION 4. IC 12-7-2-124.5, AS ADDED BY P.L.34-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 124.5. **(a)** "Local child fatality review team", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-3.

(b) "Local child fatality review team", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-3.

SECTION 5. IC 12-7-2-129.5, AS ADDED BY P.L.34-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 129.5. **(a)** "Mental health provider", for purposes of IC 12-13-15, has the meaning set forth in IC 12-13-15-4.

(b) "Mental health provider", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-4.

SECTION 6. IC 12-7-2-186.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 186.5. "Statewide child fatality review committee", for purposes of IC 12-13-15.1, has the meaning set forth in IC 12-13-15.1-5.**

SECTION 7. IC 12-13-15-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. A local child fatality review team may request that the statewide child fatality review committee make a fatality review of a child from the area served by the local child fatality review team if a majority of the members of a local child fatality review team vote to make the request.**

SECTION 8. IC 12-13-15.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 15.1. Statewide Child Fatality Review Committee

Sec. 1. As used in this chapter, "child" means an individual less than eighteen (18) years of age.

Sec. 2. As used in this chapter, "emergency medical services" means emergency ambulance services or other services, including extrication and rescue services, provided to an individual in need of immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

Sec. 3. As used in this chapter, "local child fatality review team" refers to a county or regional child fatality review team established under IC 12-13-15.

Sec. 4. As used in this chapter, "mental health provider" means any of the following:

(1) A registered nurse or licensed practical nurse licensed under IC 25-23.

(2) A clinical social worker licensed under IC 25-23.6-5.

(3) A marriage and family therapist licensed under IC 25-23.6-8.

(4) A psychologist licensed under IC 25-33.

(5) A school psychologist licensed by the Indiana state board of education.

Sec. 5. As used in this chapter, "statewide child fatality review committee" refers to the statewide child fatality review committee

established by section 6 of this chapter.

Sec. 6. (a) The statewide child fatality review committee is established for the purpose of reviewing a child's death that is:

(1) sudden;

(2) unexpected; or

(3) unexplained;

if the county where the child died does not have a local child fatality review team or if the local child fatality review team requests a review of the child's death by the statewide committee.

(b) The statewide child fatality review committee may also review the death of a child upon request by an individual.

(c) A request submitted under subsection (b) must set forth:

(1) the name of the child;

(2) the age of the child;

(3) the county where the child died;

(4) whether a local child fatality review team reviewed the death; and

(5) the cause of death of the deceased child.

Sec. 7. A child fatality review conducted by the statewide child fatality review committee under this chapter must consist of determining:

(1) whether similar future deaths could be prevented; and

(2) agencies or resources that should be involved to adequately prevent future deaths of children.

Sec. 8. The statewide child fatality review committee consists of the following members appointed by the governor:

(1) a coroner or deputy coroner;

(2) a representative from:

(A) the state department of health established by IC 16-19-1-1;

(B) a local health department established under IC 16-20-2; or

(C) a multiple county health department established under IC 16-20-3;

(3) a pediatrician;

(4) a representative of law enforcement;

(5) a representative from an emergency medical services provider;

(6) a director of an office of family and children;

(7) a representative of a prosecuting attorney;

(8) a pathologist with forensic experience who is licensed to practice medicine in Indiana;

(9) a mental health provider;

(10) a representative of a child abuse prevention program; and

(11) a representative of the department of education.

Sec. 9. (a) The chairperson of the statewide child fatality review committee shall be selected by the governor.

(b) The statewide child fatality review committee shall meet at the call of the chairperson.

(c) The statewide child fatality review committee chairperson shall determine the agenda for each meeting.

Sec. 10. (a) Except as provided in subsection (b), meetings of the statewide child fatality review committee are open to the public.

(b) Except as provided in subsection (d), a meeting of the statewide child fatality review committee that involves:

(1) confidential records; or

(2) identifying information regarding the death of a child that is confidential under state or federal law;

shall be held as an executive session.

(c) If a meeting is held as an executive session under subsection (b), each individual who:

(1) attends the meeting; and

(2) is not a member of the statewide child fatality review committee;

shall sign a confidentiality statement prepared by the division. The statewide child fatality review committee shall keep all confidentiality statements signed under this subsection.

(d) A majority of the members of the statewide child fatality review committee may vote to disclose any report or part of a report regarding a fatality review to the public if the information is in the general public interest as determined by the statewide child fatality review committee.

Sec. 11. Members of the statewide child fatality review committee and individuals who attend a meeting of the statewide child fatality review team as an invitee of the chairperson:

(1) may discuss among themselves confidential matters that are before the statewide child fatality review committee;

(2) are bound by all applicable laws regarding the confidentiality of matters reviewed by the statewide child fatality review committee; and

(3) except when acting:

(A) with malice;

(B) in bad faith; or

(C) with gross negligence;

are immune from any civil or criminal liability that might otherwise be imposed as a result of communicating among themselves about confidential matters that are before the statewide child fatality review committee.

Sec. 12. The division shall provide training to the statewide child fatality review committee.

Sec. 13. (a) The division shall collect and document information surrounding the deaths of children reviewed by the statewide child fatality review committee. The division shall develop a data collection form that includes:

(1) identifying and nonidentifying information;

(2) information regarding the circumstances surrounding a death;

(3) factors contributing to a death; and

(4) findings and recommendations.

(b) The data collection form developed under this section must also be provided to:

(1) the appropriate community child protection team established under IC 31-33-3; and

(2) the appropriate:

(A) local health department established under IC 16-20-2; or

(B) multiple county health department established under IC 16-20-3.

Sec. 14. The affirmative votes of the voting members of a majority of the statewide child fatality review committee are required for the committee to take action on any measure.

Sec. 15. The expenses of the statewide child fatality review committee shall be paid from funds appropriated to the division.

Sec. 16. The testimony of a member of the statewide child fatality review committee is not admissible as evidence concerning an investigation by the statewide child fatality review committee.

SECTION 9. IC 12-14-25.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. **(a)** Family preservation services may provide:

(1) comprehensive, coordinated, flexible, and accessible services;

(2) intervention as early as possible with emphasis on establishing a safe and nurturing environment;

(3) services to families who have members placed in care settings outside the nuclear family; **and**

(4) planning options for temporary placement outside the family if it would endanger the child to remain in the home.

(b) Unless authorized by a juvenile court, family preservation services may not include a temporary out-of-home placement if a person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of family preservation services is expected to be residing in the location designated as the out-of-home placement during the time the child at imminent risk of placement would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect or has a juvenile adjudication or a conviction for a felony listed in IC 12-17.4-4-11.

(c) Before placing a child at imminent risk of placement in a temporary out-of-home placement, the county office of family and children shall conduct a criminal history check (as defined in IC 31-9-2-29.7) for each person described in subsection (b)(1) and (b)(2). However, the county office of family and children is not required to conduct a criminal history check under this section if

the temporary out-of-home placement is made to an entity or facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

SECTION 10. IC 31-9-2-29.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 29.7. "Criminal history check", for purposes of IC 31-34 and IC 31-37, means a report consisting of:**

(1) criminal history data (as defined in IC 10-13-3-5);

(2) each substantiated report of child abuse or neglect reported in a jurisdiction where the county office of family and children has reason to believe the subject resided; and

(3) each adjudication for a delinquent act described in IC 31-37-1-2 reported in a jurisdiction where the county office of family and children has reason to believe the subject resided.

SECTION 11. IC 31-9-2-58.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 58.5. "Indicated", for purposes of IC 31-33-8-12, means facts obtained during an investigation of suspected child abuse or neglect that:**

(1) provide:

(A) significant indications that a child may be at risk for abuse or neglect; or

(B) evidence that abuse or neglect previously occurred; and

(2) cannot be classified as substantiated or unsubstantiated.

SECTION 12. IC 31-33-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The local child protection service:

(1) must have sufficient qualified and trained staff to fulfill the purpose of this article; ~~and~~

(2) must be organized to maximize the continuity of responsibility, care, and service of individual caseworkers toward individual children and families;

(3) must provide training to representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and

(4) must provide training to representatives of the child protective services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the Constitution of the State of Indiana.

SECTION 13. IC 31-33-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 12. **(a)** Upon completion of an investigation, the local child protection service shall classify reports as substantiated, **indicated,** or unsubstantiated.

(b) Except as provided in subsection (c), a local child protection service shall expunge investigation records one (1) year after a report has been classified as indicated under subsection (a).

(c) If a local child protection service has:

(1) classified a report under subsection (a) as indicated; and

(2) not expunged the report under subsection (b);

and the subject of the report is the subject of a subsequent report, the one (1) year period in subsection (b) is tolled for one (1) year after the date of the subsequent report.

SECTION 14. IC 31-33-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **(a) Except as provided in section 1.5 of this chapter,** the following are confidential:

(1) Reports made under this article (or IC 31-6-11 before its repeal).

(2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:

(A) the division of family and children;

(B) the county office of family and children; or

(C) the local child protection service.

(b) Except as provided in section 1.5 of this chapter, all records held by:

(1) the division of family and children;

(2) a county office of family and children;

(3) a local child protection service;

(4) a local child fatality review team established under IC 12-13-15; or

(5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed.

SECTION 15. IC 31-33-18-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) This section applies to records held by:**

(1) the division of family and children;

(2) a county office of family and children;

(3) a local child protection service;

(4) a local child fatality review team established under IC 12-13-15; or

(5) the statewide child fatality review committee established under IC 12-13-15.1-6;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect.

(b) As used in this section, "identifying information" means information that identifies an individual, including an individual's:

(1) name, address, date of birth, occupation, place of employment, employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;

(2) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;

(3) unique electronic identification number, address, or routing code;

(4) telecommunication identifying information; or

(5) telecommunication access device, including a card, a plate, a code, a telephone number, an account number, a personal identification number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access.

(c) Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

(d) When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

(e) Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude identifying information of a person or other information not relevant to establishing the facts and circumstances leading to the death of the child. However, the court shall not redact the record to exclude information that relates to an employee of the division of family and children, an employee of a county office of family and children, or an employee of a local child protection service.

(f) The court shall disclose the record redacted in accordance with subsection (e) to any person who requests the record, if the person has paid:

(1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and

(2) to the court, the reasonable expenses of copying the record.

(g) The court's determination under subsection (e) that certain identifying information or other information is not relevant to

establishing the facts and circumstances leading to the death of a child is not admissible in a criminal proceeding or civil action.

SECTION 16. IC 31-33-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. The reports and other material described in ~~section 1~~ **section 1(a)** of this chapter **and the unredacted reports and other material described in section 1(b) of this chapter** shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody;

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, **for redaction of the record in accordance with section 1.5 of this chapter, or** upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, **except for disclosure of a redacted record in accordance with section 1.5 of this chapter,** access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for the child protective service or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 12-13-15-6.

(17) The statewide child fatality review committee established by IC 12-13-15.1-6.

SECTION 17. IC 31-33-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. **(a)** An individual who

~~(1)~~ knowingly requests, obtains, or seeks to obtain child abuse or neglect information under false pretenses ~~or~~

~~(2) knowingly falsifies child abuse or neglect information or records;~~

commits a Class B misdemeanor.

(b) A person who knowingly or intentionally:

(1) falsifies child abuse or neglect information or records; or

(2) obstructs or interferes with a child abuse investigation, including an investigation conducted by a local child fatality review team or the statewide child fatality review committee;

commits obstruction of a child abuse investigation, a Class A misdemeanor.

SECTION 18. IC 31-34-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) If a child alleged to be a child in need of services is taken into custody under an order of the court under this chapter, the court shall consider placing the child with a suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering any other out-of-home placement.

(b) Before placing a child in need of services with a blood relative or an adoptive relative caretaker, the court may order the division of family and children to:

(1) complete a home study of the relative's home; and

(2) provide the court with a placement recommendation.

(c) Except as provided in subsection (e), before placing a child in need of services in an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the court shall order the division of family and children to conduct a criminal history check of each person who is:

(1) currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the division of family and children, expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

(d) Except as provided in subsection (f), a court may not order an out-of-home placement if a person described in subsection (c)(1) or (c)(2) has:

(1) committed an act resulting in a substantiated report of child abuse or neglect; or

(2) been convicted of a felony listed in IC 12-17.4-4-11 or had a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult.

(e) The court is not required to order the division of family and children to conduct a criminal history check under subsection (c) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(f) A court may order an out-of-home placement if:

(1) a person described in subsection (c)(1) or (c)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C

or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the placement is in the best interest of the child.

However, a court may not order an out-of-home placement if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B) .

(g) In making its written finding under subsection (f), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 19. IC 31-34-18-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker shall conduct a criminal history check for each person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 20. IC 31-34-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. **(a) Except as provided in subsection (d), a court may not enter a dispositional decree under subsection (b) if a person who is:**

(1) currently residing in the location designated as the out-of-home placement; or

(2) reasonably expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. If a criminal history check has not been conducted before a dispositional decree is entered under this section, the court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check in the manner set forth in IC 31-34-18-6.1.

(b) In addition to the factors under section 6 of this chapter, if the court enters a dispositional decree regarding a child in need of services that includes an out-of-home placement, the court shall consider whether the child should be placed with the child's suitable and willing blood or adoptive relative caretaker, including a grandparent, an aunt, an uncle, or an adult sibling, before considering other out-of-home placements for the child.

(c) The court is not required to order a probation officer or caseworker to conduct a criminal history check under subsection (a) if the court orders an out-of-home placement to an entity or a facility that is not a residence (as defined in IC 3-5-2-42.5) or that is licensed by the state.

(d) A court may enter a dispositional decree under subsection (b) if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and the dispositional decree is in the best interest of the child.

However, a court may not enter a dispositional decree if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B).

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the conviction, adjudication, or substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 21. IC 31-34-20-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section 1.5 of this chapter,** if a child is a child in need of services, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation department or the county office of family and children.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship to a person or shelter care facility.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(5) Partially or completely emancipate the child under section 6 of this chapter.

(6) Order:

(A) the child; or

(B) the child's parent, guardian, or custodian;

to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 22. IC 31-34-20-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 1.5. (a) Except as provided in subsection (c), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) of this chapter or awarding wardship to a county office of family and children that will place the child with a person under section 1(4) of this chapter if a person who is:**

(1) currently residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter; or

(2) reasonably expected to be residing in the home in which the child would be placed under section 1(3) or 1(4) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, or IC 31-34-19-7 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A court may enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that the dispositional decree placing a child in another home or awarding wardship to a county office of family and children is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home or award wardship to a county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B) .

(d) In making its written finding under subsection (c), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 23. IC 31-34-21-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7.5. **(a) Except as provided in subsection (d), the juvenile court may not approve a permanency plan under subsection (c)(1)(D) or (c)(1)(E) if a person who is:**

(1) currently residing with a person described in subsection (c)(1)(D) or (c)(1)(E); or

(2) reasonably expected to be residing with a person described in subsection (c)(1)(D) or (c)(1)(E) during the time the child would be placed in the location;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-34-4-2, IC 31-34-18-6.1, IC 31-34-19-7, or IC 31-34-20-1.5 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) A permanency plan under this chapter includes the following:

(1) The intended permanent or long term arrangements for care and custody of the child that may include any of the following arrangements that the court considers most appropriate and consistent with the best interests of the child:

(A) Return to or continuation of existing custodial care within the home of the child's parent, guardian, or custodian or placement of the child with the child's noncustodial parent.

(B) Initiation of a proceeding by the agency or appropriate person for termination of the parent-child relationship under IC 31-35.

(C) Placement of the child for adoption.

(D) Placement of the child with a responsible person, including:

(i) an adult sibling;

(ii) a grandparent;

(iii) an aunt;

(iv) an uncle; or

(v) ~~other~~ **another** relative;

who is able and willing to act as the child's permanent custodian and carry out the responsibilities required by the permanency plan.

(E) Appointment of a legal guardian. The legal guardian appointed under this section is a caretaker in a judicially created relationship between the child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of the following parental rights with respect to the child:

(i) Care, custody, and control of the child.

(ii) Decision making concerning the child's upbringing.

(F) Placement of the child in another planned, permanent living arrangement.

(2) A time schedule for implementing the applicable provisions of the permanency plan.

(3) Provisions for temporary or interim arrangements for care and custody of the child, pending completion of implementation of the permanency plan.

(4) Other items required to be included in a case plan under IC 31-34-15 or federal law, consistent with the permanent or long term arrangements described by the permanency plan.

(d) A juvenile court may approve a permanency plan if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that approval of the permanency plan is in the best interest of the child.

However, a court may not approve a permanency plan if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B) .

(e) In making its written finding under subsection (d), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 24. IC 31-37-17-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6.1. **(a)** The predispositional report prepared by a probation officer or caseworker shall include the following information:

(1) A description of all dispositional options considered in preparing the report.

(2) An evaluation of each of the options considered in relation to the plan of care, treatment, rehabilitation, or placement recommended under the guidelines described in section 4 of this chapter.

(3) The name, occupation and position, and any relationship to the child of each person with whom the preparer of the report conferred as provided in section 1.1 of this chapter.

(b) If a probation officer or a caseworker is considering an out-of-home placement, including placement with a blood or an adoptive relative caretaker, the probation officer or caseworker must conduct a criminal history check for each person who:

(1) is currently residing in the location designated as the out-of-home placement; or

(2) in the reasonable belief of the probation officer or caseworker, is expected to be residing in the location designated as the out-of-home placement during the time the child would be placed in the location.

The results of the criminal history check must be included in the predispositional report.

(c) A probation officer or caseworker is not required to conduct a criminal history check under this section if:

(1) the probation officer or caseworker is considering only an out-of-home placement to an entity or a facility that:

(A) is not a residence (as defined in IC 3-5-2-42.5); or

(B) is licensed by the state; or

(2) placement under this section is undetermined at the time the predispositional report is prepared.

SECTION 25. IC 31-37-19-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. **Subject to section 6.5 of this chapter,** if a child is a delinquent child under IC 31-37-2, the juvenile court may enter one (1) or more of the following dispositional decrees:

(1) Order supervision of the child by the probation department or the county office of family and children.

(2) Order the child to receive outpatient treatment:

(A) at a social service agency or a psychological, a psychiatric, a medical, or an educational facility; or

(B) from an individual practitioner.

(3) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(4) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(5) Partially or completely emancipate the child under section 27 of this chapter.

(6) Order:

(A) the child; or

(B) the child's parent, guardian, or custodian;

to receive family services.

(7) Order a person who is a party to refrain from direct or indirect contact with the child.

SECTION 26. IC 31-37-19-6, AS AMENDED BY P.L.1-2003, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) This section applies if a child is a delinquent child under IC 31-37-1.

(b) Except as provided in section 10 of this chapter **and subject to section 6.5 of this chapter,** the juvenile court may:

(1) enter any dispositional decree specified in section 5 of this chapter; and

(2) take any of the following actions:

(A) Award wardship to:

(i) the department of correction for housing in a correctional facility for children; or

(ii) a community based correctional facility for children.

Wardship under this subdivision does not include the right to consent to the child's adoption.

(B) If the child is less than seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) ninety (90) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(C) If the child is at least seventeen (17) years of age, order confinement in a juvenile detention facility for not more than the lesser of:

(i) one hundred twenty (120) days; or

(ii) the maximum term of imprisonment that could have been imposed on the child if the child had been convicted as an adult offender for the act that the child committed under IC 31-37-1 (or IC 31-6-4-1(b)(1) before its repeal).

(D) Remove the child from the child's home and place the child in another home or shelter care facility. Placement under this subdivision includes authorization to control and discipline the child.

(E) Award wardship to a person or shelter care facility. Wardship under this subdivision does not include the right to consent to the child's adoption.

(F) Place the child in a secure private facility for children

licensed under the laws of a state. Placement under this subdivision includes authorization to control and discipline the child.

(G) Order a person who is a respondent in a proceeding under IC 31-37-16 (before its repeal) or IC 34-26-5 to refrain from direct or indirect contact with the child.

SECTION 27. IC 31-37-19-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6.5. (a) Except as provided in subsection (c), the juvenile court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if a person who is:**

(1) currently residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter; or

(2) reasonably expected to be residing in the home in which the child would be placed under section 1(3), 1(4), 6(b)(2)(D), or 6(b)(2)(E) of this chapter during the time the child would be placed in the home;

has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(b) The juvenile court shall order the probation officer or caseworker who prepared the predispositional report to conduct a criminal history check to determine if a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11. However, the juvenile court is not required to order a criminal history check under this section if criminal history information under IC 31-37-17-6.1 establishes whether a person described in subsection (a)(1) or (a)(2) has committed an act resulting in a substantiated report of child abuse or neglect, has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult, or has a conviction for a felony listed in IC 12-17.4-4-11.

(c) The juvenile court may enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children that results in a placement with a person under section 1(4) or 6(b)(2)(E) of this chapter if:

(1) a person described in subsection (a)(1) or (a)(2) has:

(A) committed an act resulting in a substantiated report of child abuse or neglect; or

(B) been convicted or had a juvenile adjudication for:

(i) reckless homicide (IC 35-42-1-5);

(ii) battery (IC 35-42-2-1) as a Class C or D felony;

(iii) criminal confinement (IC 35-42-3-3) as a Class C or D felony;

(iv) arson (IC 35-43-1-1) as a Class C or D felony;

(v) a felony involving a weapon under IC 35-47 or IC 35-47.5 as a Class C or D felony;

(vi) a felony relating to controlled substances under IC 35-48-4 as a Class C or D felony; or

(vii) a felony that is substantially equivalent to a felony listed in items (i) through (vi) for which the conviction was entered in another state; and

(2) the court makes a written finding that the person's commission of the offense, delinquent act, or act of abuse or neglect described in subdivision (1) is not relevant to the person's present ability to care for a child, and that entry of a dispositional decree placing the child in another home is in the best interest of the child.

However, a court may not enter a dispositional decree placing a child in another home under section 1(3) or 6(b)(2)(D) of this chapter or awarding wardship to the county office of family and children if the person has been convicted of a felony listed in IC 12-17.4-4-11 that is not specifically excluded under subdivision (1)(B), or has a juvenile adjudication for an act that would be a felony listed in IC 12-17.4-4-11 if committed by an adult that is not specifically excluded under subdivision (1)(B) .

(d) In making its written finding under subsection (c), the court shall consider the following:

(1) The length of time since the person committed the offense, delinquent act, or act that resulted in the substantiated report of abuse or neglect.

(2) The severity of the offense, delinquent act, or abuse or neglect.

(3) Evidence of the person's rehabilitation, including the person's cooperation with a treatment plan, if applicable.

SECTION 28. IC 31-37-19-17.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 17.4. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be a sex crime listed in IC 35-38-1-7.1(e).**

(b) The juvenile court may, in addition to any other order or decree the court makes under this chapter, order:

(1) the child; and

(2) the child's parent or guardian;

to receive psychological counseling as directed by the court.

SECTION 29. IC 31-39-2-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13.5. The records of the juvenile court are available without a court order to an employee of the division of family and children, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 12-14-25.5-3, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:**

(1) child at imminent risk of placement;

(2) child in need of services; or

(3) delinquent child.

SECTION 30. IC 34-30-2-44.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 44.1. IC 12-13-15.1-11 (Concerning members of the statewide child fatality review committee and persons who attend a meeting of the statewide child fatality review committee as invitees of the chairperson)**.

(Reference is to EHB 1194 as reprinted February 26, 2004.)

AVERY	DILLON
BUDAK	BRODEN
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1017–1; filed March 3, 2004, at 9:45 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1017 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 13-23-12-7, AS AMENDED BY P.L.14-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 7. (a) **Except as provided in subsection (e),** an owner of an underground storage tank who:

(1) is required to pay the fee under section 1 of this chapter; and

(2) fails to pay the fee when due as established under section 2 of this chapter;

shall be assessed a penalty of not more than two thousand dollars ($2,000) per underground storage tank for each year that passes after the fee becomes due and before the fee is paid.

(b) Except as provided in subsection (c), each penalty assessed under this section and collected from the owner of an underground

petroleum storage tank shall be deposited as follows:

(1) Fifty percent (50%) shall be deposited in the petroleum trust fund.

(2) Fifty percent (50%) shall be deposited in the excess liability trust fund.

(c) Penalties assessed under this section and collected from owners of underground storage tanks used to contain regulated substances other than petroleum shall be deposited in the hazardous substances response trust fund.

(d) The penalty set forth in this section is in addition to the penalties that may be imposed under the following:

(1) IC 13-23-14-2.
(2) IC 13-23-14-3.
(3) IC 13-23-14-4.
(4) IC 13-30-4.
(5) IC 13-30-5.
(6) IC 13-30-6.
(7) IC 13-30-8.

(e) If an owner described in subsection (a) registered an underground storage tank before January 1, 2004, the penalty established in subsection (a) may not be assessed against the owner for any failure to pay an annual registration fee under section 1 of this chapter:

(1) in connection with the underground storage tank; and

(2) that was due before January 1, 2004.

SECTION 2. IC 13-11-2-38.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 38.3. "Concentrated animal feeding operation" or "CAFO", for purposes of IC 13-18-10 and IC 13-18-20, has the meaning set forth in 40 CFR 122.23.**

SECTION 3. IC 13-18-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** A person may not start construction of a confined feeding operation without obtaining the prior approval of the department.

(b) Obtaining an NPDES permit for a CAFO meets the requirements of subsection (a) and 327 IAC 16 to obtain an approval.

SECTION 4. IC 13-18-20-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) In addition to the fee under section 12 of this chapter, when a person files a notice of intent with the department concerning:**

(1) an initial; or

(2) the renewal of a;

general NPDES permit for a CAFO, the person must remit a permit fee of one hundred dollars ($100) to the department.

(b) In addition to the fee under section 12 of this chapter, when a person files an application with the department concerning:

(1) an initial; or

(2) the renewal of an;

individual NPDES permit for a CAFO, the person must remit a permit fee of two hundred fifty dollars ($250) to the department.

(c) If a person is subject to a fee for a CAFO under this section, no other fee under this chapter applies to the CAFO other than the fee under section 12 of this chapter.

SECTION 5. IC 13-11-2-144.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 144.8. "Onsite sewage system", for purposes of IC 13-18-17, means all equipment and devices necessary for proper:**

(1) onsite:

(A) conduction;
(B) collection;
(C) storage; and
(D) treatment; and

(2) absorption in soil;

of sewage from a residence or a commercial facility.

SECTION 6. IC 13-18-17-5, AS AMENDED BY P.L.168-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The ~~water pollution control~~ board shall adopt rules under IC 4-22-2 establishing groundwater quality standards that include numeric and narrative criteria, a groundwater classification plan, and a method of determining where the groundwater quality standards must apply. The standards established under this subsection shall be used for the following purposes:

(1) To establish minimum compliance levels for groundwater quality monitoring at regulated facilities.
(2) To ban the discharge of effluents into potable groundwater.
(3) To establish health protection goals for untreated water in water supply wells.
(4) To establish concentration limits for contaminants in ambient groundwater.

(b) **Except as provided in subsection (c) and subject to subsection (d),** the following agencies shall adopt rules under IC 4-22-2 to apply the groundwater quality standards established under this section to activities regulated by the agencies:

(1) The department.
(2) The department of natural resources.
(3) The state department of health.
(4) The office of the state chemist.
(5) The office of the state fire marshal.

(c) The executive board of the state department of health may not adopt rules to apply the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the board under subsection (a) to onsite sewage systems.

(d) Any rule adopted by the executive board of the state department of health is void to the extent that the rule applies the nitrate and nitrite numeric criteria included in groundwater quality standards established in rules adopted by the Indiana water pollution control board under subsection (a) to onsite sewage systems.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) For purposes of this SECTION, "onsite sewage system" has the meaning set forth in IC 13-11-2-144.8, as added by this act.**

(b) The department of environmental management and the state department of health shall jointly:

(1) prepare a report that includes the following:

(A) a review of literature and recent research to document:

(i) the effect of nitrates and nitrites in drinking water on public health;
(ii) the effect of onsite sewage systems on levels of nitrates and nitrites in groundwater;
(iii) the movement of nitrates and nitrites in soils; and
(iv) the onsite sewage system technologies available to achieve compliance with the nitrate and nitrite numeric criteria included in the groundwater quality standards under 327 IAC 2-11, as in effect January 1, 2004; and

(B) the impact if newly installed onsite sewage systems were required to comply with the nitrate and nitrite numeric criteria included in the groundwater quality standards under 327 IAC 2-11, as in effect January 1, 2004, including:

(i) the number of residences and commercial facilities affected; and
(ii) the cost of implementation; and

(2) submit the report referred to in subdivision (a) before January 1, 2009, to:

(A) the governor;
(B) the executive director of the legislative services agency in an electronic format under IC 5-14-6; and
(C) the environmental quality service council.

(c) This SECTION expires January 1, 2009.

SECTION 8. P.L.231-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 6. (a) **Except as provided in subsection (b),** before July 1, ~~2005~~, **2006,** the:

(1) air pollution control board, water pollution control board, or solid waste management board may not adopt a new rule; and
(2) department of environmental management may not adopt a new policy;

if the new rule or policy would require any industry described in subsection (b) that experienced at least a ten percent (10%) job loss

or a ten percent (10%) decline in production during calendar years 2001, ~~and~~ 2002, **and 2003** to comply with a standard of conduct that exceeds the standard established in a related federal regulation or regulatory policy.

(b) **Subsection (a) does not apply to the adoption of a new rule by the air pollution control board that is necessary to attain or maintain the primary or secondary national ambient air quality standards as part of a state implementation plan submitted to the United States Environmental Protection Agency under Section 110 of the federal Clean Air Act (42 U.S.C. 7410a).**

(c) The following are the industries referred to in subsection (a) functioning under the following primary Standard Industrial Classification (SIC) codes:

(1) Blast furnaces and steel mills (3312).
(2) Gray and ductile iron foundries (3321).
(3) Malleable iron foundries (3322).
(4) Steel investment foundries (3324).
(5) Steel foundries (3325).
(6) Aluminum foundries (3365).
(7) Copper foundries (3366).
(8) Nonferrous foundries (3369).

~~(c)~~ **(d)** This SECTION expires July 1, ~~2005.~~ **2006.**

SECTION 9. **An emergency is declared for this act.**

(Reference is to EHB 1017 as reprinted February 24, 2004.)

GRUBB	GARD
WOLKINS	HUME
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

CONFERENCE COMMITTEE REPORT
EHB 1229–1; filed March 3, 2004, at 11:25 p.m.

Mr. Speaker: Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill 1229 respectfully reports that said two committee have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 4-4-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 8. (a) The department shall develop and promote programs designed to make the best use of the resources of the state so as to assure a balanced economy and continuing economic growth for Indiana and for those purposes may do the following:

(1) Cooperate with federal, state, and local governments and agencies in the coordination of programs to make the best use of the resources of the state.

(2) Receive and expend all funds, grants, gifts, and contributions of money, property, labor, interest accrued from loans made by the department, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government. The department:

(A) may accept federal grants for providing planning assistance, making grants, or providing other services or functions necessary to political subdivisions, planning commissions, or other public or private organizations;

(B) shall administer these grants in accordance with their terms; and

(C) may contract with political subdivisions, planning commissions, or other public or private organizations to carry out the purposes for which the grants were made.

(3) Direct that assistance, information, and advice regarding the duties and functions of the department be given the department by any officer, agent, or employee of the state. The head of any other state department or agency may assign one (1) or more of the department's or agency's employees to the department on a temporary basis, or may direct any division or agency under the department's or agency's supervision and control to make any special study or survey requested by the director.

(b) The department shall perform the following duties:

(1) Disseminate information concerning the industrial, commercial, governmental, educational, cultural, recreational, agricultural, and other advantages of Indiana.

(2) Plan, direct, and conduct research activities.

(3) Develop and implement industrial development programs to encourage expansion of existing industrial, commercial, and business facilities within Indiana and to encourage new industrial, commercial, and business locations within Indiana.

(4) Assist businesses and industries in acquiring, improving, and developing overseas markets and encourage international plant locations within Indiana. The director, with the approval of the governor, may establish foreign offices to assist in this function.

(5) Promote the growth of minority business enterprises by doing the following:

(A) Mobilizing and coordinating the activities, resources, and efforts of governmental and private agencies, businesses, trade associations, institutions, and individuals.

(B) Assisting minority businesses in obtaining governmental or commercial financing for expansion, establishment of new businesses, or individual development projects.

(C) Aiding minority businesses in procuring contracts from governmental or private sources, or both.

(D) Providing technical, managerial, and counseling assistance to minority business enterprises.

(6) Assist in community economic development planning and the implementation of programs designed to further this development.

(7) Assist in the development and promotion of Indiana's tourist resources, facilities, attractions, and activities.

(8) Assist in the promotion and marketing of Indiana's agricultural products, and provide staff assistance to the director in fulfilling the director's responsibilities as commissioner of agriculture.

(9) Perform the following energy related functions:

(A) Assist in the development and promotion of alternative energy resources, including Indiana coal, oil shale, hydropower, solar, wind, geothermal, and biomass resources.

(B) Encourage the conservation and efficient use of energy, including energy use in commercial, industrial, residential, governmental, agricultural, transportation, recreational, and educational sectors.

(C) Assist in energy emergency preparedness.

(D) Not later than January 1, 1994, establish:

(i) specific goals for increased energy efficiency in the operations of state government and for the use of alternative fuels in vehicles owned by the state; and

(ii) guidelines for achieving the goals established under item (i).

(E) Establish procedures for state agencies to use in reporting to the department on energy issues.

(F) Carry out studies, research projects, and other activities required to:

(i) assess the nature and extent of energy resources required to meet the needs of the state, including coal and other fossil fuels, alcohol fuels produced from agricultural and forest products and resources, renewable energy, and other energy resources;

(ii) promote cooperation among government, utilities, industry, institutions of higher education, consumers, and all other parties interested in energy and recycling market development issues; and

(iii) promote the dissemination of information concerning energy and recycling market development issues.

(10) Implement any federal program delegated to the state to effectuate the purposes of this chapter.

(11) Promote the growth of small businesses by doing the following:

(A) Assisting small businesses in obtaining and preparing the permits required to conduct business in Indiana.

(B) Serving as a liaison between small businesses and state agencies.

(C) Providing information concerning business assistance

programs available through government agencies and private sources.

(12) Assist the Indiana commission for agriculture and rural development in performing its functions under IC 4-4-22.

(13) Develop and promote markets for the following recyclable items:

(A) Aluminum containers.
(B) Corrugated paper.
(C) Glass containers.
(D) Magazines.
(E) Steel containers.
(F) Newspapers.
(G) Office waste paper.
(H) Plastic containers.
(I) Foam polystyrene packaging.
(J) Containers for carbonated or malt beverages that are primarily made of a combination of steel and aluminum.

(14) Produce an annual recycled products guide and at least one (1) time each year distribute the guide to the following:

(A) State agencies.
(B) The judicial department of state government.
(C) The legislative department of state government.
(D) State educational institutions (as defined in IC 20-12-0.5-1).
(E) Political subdivisions (as defined in IC 36-1-2-13).
(F) Bodies corporate and politic created by statute.

A recycled products guide distributed under this subdivision must include a description of supplies and other products that contain recycled material and information concerning the availability of the supplies and products.

(15) Beginning July 1, 2005, the department shall identify, promote, assist, and fund home ownership education programs conducted throughout Indiana by nonprofit counseling agencies certified by the department using funds appropriated under IC 4-4-3-23(e). The department shall adopt rules under IC 4-22-2 governing certification procedures and counseling requirements for nonprofit home ownership counselors. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the department in implementing this subdivision.

(c) The department shall submit a report to the general assembly before October 1 of each year concerning the availability of and location of markets for recycled products in Indiana. The report must include the following:

(1) A priority listing of recyclable materials to be targeted for market development. The listing must be based on an examination of the need and opportunities for the marketing of the following:

(A) Paper.
(B) Glass.
(C) Aluminum containers.
(D) Steel containers.
(E) Bi-metal containers.
(F) Glass containers.
(G) Plastic containers.
(H) Landscape waste.
(I) Construction materials.
(J) Waste oil.
(K) Waste tires.
(L) Coal combustion wastes.
(M) Other materials.

(2) A presentation of a market development strategy that:

(A) considers the specific material marketing needs of Indiana; and
(B) makes recommendations for legislative action.

(3) An analysis that examines the cost and effectiveness of future market development options.

SECTION 2. IC 4-4-3-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: **Sec. 23. (a) The home ownership education account within the state general fund is established to support the home ownership education programs established under section 8(b)(15) of this chapter. The account is administered by the department.**

(b) The home ownership education account consists of fees collected under IC 24-9-9.

(c) The expenses of administering the home ownership education account shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the home ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(e) Money in the account may be spent only after appropriation by the general assembly.

SECTION 3. IC 4-6-3-3, AS AMENDED BY P.L.2-2002, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 3. If the attorney general has reasonable cause to believe that a person may be in possession, custody, or control of documentary material, or may have knowledge of a fact that is relevant to an investigation conducted to determine if a person is or has been engaged in a violation of IC 4-6-9, IC 4-6-10, IC 13-14-10, IC 13-14-12, IC 13-24-2, IC 13-30-4, IC 13-30-5, IC 13-30-6, IC 13-30-8, IC 23-7-8, IC 24-1-2, IC 24-5-0.5, IC 24-5-7, IC 24-5-8, **IC 24-9,** IC 25-1-7, IC 32-34-1, or any other statute enforced by the attorney general, only the attorney general may issue in writing, and cause to be served upon the person or the person's representative or agent, an investigative demand that requires that the person served do any combination of the following:

(1) Produce the documentary material for inspection and copying or reproduction.
(2) Answer under oath and in writing written interrogatories.
(3) Appear and testify under oath before the attorney general or the attorney general's duly authorized representative.

SECTION 4. IC 4-6-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]:

Chapter 12. Homeowner Protection Unit

Sec. 1. As used in this chapter, "unit" refers to the homeowner protection unit established under this chapter.

Sec. 2. The attorney general shall establish a homeowner protection unit to enforce IC 24-9 and to carry out this chapter.

Sec. 3. (a) Beginning July 1, 2005, the unit shall do the following:

(1) Investigate deceptive acts in connection with mortgage lending.
(2) Investigate violations of IC 24-9.
(3) Institute appropriate administrative and civil actions to redress:
(A) deceptive acts in connection with mortgage lending; and
(B) violations of IC 24-5-0.5 and IC 24-9.
(4) Cooperate with federal, state, and local law enforcement agencies in the investigation of:
(A) deceptive acts in connection with mortgage lending;
(B) criminal violations involving deceptive acts in connection with mortgage lending; and
(C) violations of IC 24-5-0.5 and IC 24-9.

(b) The attorney general shall adopt rules under IC 4-22-2 to the extent necessary to organize the unit.

Sec. 4. (a) The following may cooperate with the unit to implement this chapter:

(1) The Indiana professional licensing agency and the appropriate licensing boards with respect to persons licensed under IC 25.
(2) The department of financial institutions.
(3) The department of insurance with respect to the sale of insurance in connection with mortgage lending.
(4) The securities division of the office of the secretary of state.
(5) The supreme court disciplinary commission with respect to attorney misconduct.
(6) The Indiana housing finance authority.
(7) The department of state revenue.
(8) The state police department.
(9) A prosecuting attorney.

(10) Local law enforcement agencies.

(11) The department of commerce.

(b) Notwithstanding IC 5-14-3, the entities listed in subsection (a) may share information with the unit.

Sec. 5. The attorney general may file complaints with any of the entities listed in section 4 of this chapter to carry out this chapter and IC 24-9.

Sec. 6. The establishment of the unit and the unit's powers does not limit the jurisdiction of an entity described in section 4 of this chapter.

Sec. 7. The attorney general and an investigator of the unit may do any of the following when conducting an investigation under section 3 of this chapter:

(1) Issue and serve a subpoena for the production of records, including records stored in electronic data processing systems, for inspection by the attorney general or the investigator.

(2) Issue and serve a subpoena for the appearance of a person to provide testimony under oath.

(3) Apply to a court with jurisdiction to enforce a subpoena described in subdivision (1) or (2).

Sec. 8. The unit shall cooperate with the department of commerce in the development and implementation of the home ownership education programs established under IC 4-4-3-8(b)(15).

Sec. 9. (a) The homeowner protection unit account within the general fund is established to support the operations of the unit. The account is administered by the attorney general.

(b) The homeowner protection unit account consists of fees collected under IC 24-9-9.

(c) The expenses of administering the homeowner protection unit account shall be paid from money in the account.

(d) The treasurer of state shall invest the money in the homeowner protection unit account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

(e) Before July 1, 2007:

(1) money in the homeowner protection unit account at the end of the state fiscal year does not revert to the state general fund; and

(2) there is annually appropriated to the attorney general from the homeowner protection unit account money sufficient for carrying out the purposes of this chapter and IC 24-9.

(f) After June 30, 2007:

(1) money in the homeowner protection unit account at the end of a state fiscal year reverts to the state general fund; and

(2) money in the homeowner protection unit account may only be spent after appropriation by the general assembly.

SECTION 5. IC 23-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) The following securities are exempted from the registration requirements of section 3 of this chapter:

(1) A security (including a revenue obligation) issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one (1) or more of the foregoing or a certificate of deposit for any of the foregoing.

(2) A security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency, or corporate or other instrumentality of one (1) or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor.

(3) A security issued by and representing an interest in or a debt of, or guaranteed by a bank organized under the laws of the United States, a bank, savings institution, or trust company organized and supervised under the laws of a state, a federal savings association, a savings association organized under the laws of a state and authorized to do business in Indiana, a federal credit union or a credit union, industrial loan association, or similar association organized and supervised under the laws of this state, or a corporation or organization whose issuance of securities is required by any other law to be passed upon and authorized by the department of financial institutions or by a federal agency or authority.

(4) A security issued or guaranteed by a railroad or other common or contract carrier, a public utility, or a common or contract carrier or public utility holding company. However, an issuer or guarantor must be subject to regulation or supervision as to the issuance of its own securities by a public commission, board, or officer of the government of the United States, of a state, territory, or insular possession of the United States, of a municipality located in a state, territory, or insular possession, of the District of Columbia, or of the Dominion of Canada or a province of Canada.

(5) A security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Chicago Stock Exchange, or on any other exchange approved and designated by the commissioner, any other security of the same issuer that is of senior rank or substantially equal rank, a security called for by subscription rights or warrants so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(6) A promissory note, draft, bill of exchange, or banker's acceptance that is evidence of:

(A) an obligation;

(B) a guarantee of an obligation;

(C) a renewal of an obligation; or

(D) a guarantee of a renewal of an obligation;

to pay cash within nine (9) months after the date of issuance, excluding grace days, that is issued in denominations of at least fifty thousand dollars ($50,000) and receives a rating in one (1) of the three (3) highest rating categories from a nationally recognized statistical rating organization.

(7) A security issued in connection with an employee stock purchase, savings, pension, profit-sharing, or similar benefit plan.

(8) A security issued by an association incorporated under IC 15-7-1.

(9) A security that is an industrial development bond (as defined in Section 103(b)(2) of the Internal Revenue Code of 1954) the interest of which is excludable from gross income under Section 103(a)(1) of the Internal Revenue Code of 1954 if, by reason of the application of paragraph (4) or (6) of Section 103(b) of the Internal Revenue Code of 1954 (determined as if paragraphs (4)(A), (5), and (7) were not included in Section 103(b)), paragraph (1) of Section 103(b) does not apply to the security.

(10) A security issued by a nonprofit corporation that meets the requirements of Section 103(e) of the Internal Revenue Code of 1954 and is designated by the governor as the secondary market for guaranteed student loans under IC 20-12-21.2.

(11) A security designated or approved for designation upon notice of issuance on the National Association of Securities Dealers Automatic Quotation National Market System or any other national market system approved and designated by the commissioner, any other security of the same issuer that is of senior rank or substantially equal rank, a security called for by subscription rights or warrants so listed or approved, or a warrant or right to purchase or subscribe to any of the foregoing.

(12) A security that is a "qualified bond" (as defined in Section 141(e) of the Internal Revenue Code, as amended).

(b) The following transactions are exempted from the registration requirements of section 3 of this chapter:

(1) An isolated nonissuer offer or sale, whether effected through a broker-dealer or not.

(2) A nonissuer sale effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy.

(3) A nonissuer offer or sale by a registered broker-dealer, acting either as principal or agent, of issued and outstanding securities if the following conditions are satisfied:

(A) The securities are sold at prices reasonably related to the current market price at the time of sale, and if the registered

broker-dealer is acting as agent, the commission collected by the registered broker-dealer on account of the sale is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics.

(B) The securities do not constitute an unsold allotment to or subscription by the broker-dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter.

(C) Either:

(i) information consisting of the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than eighteen (18) months prior to the date of the sale, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations is published in a securities manual approved by the commissioner;

(ii) the issuer is required to file reports with the Securities and Exchange Commission pursuant to sections 13 and 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78m and 78o) and is not delinquent in the filing of the reports on the date of the sale; or

(iii) information consisting of the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than sixteen (16) months prior to the date of the sale, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations is on file with the commissioner. The information required by this item to be on file with the commissioner must be on a form and made in a manner as the commissioner prescribes. The fee for the initial filing of the form shall be twenty-five dollars ($25). The fee for the annual renewal filing shall be fifteen dollars ($15). When a filing is withdrawn or is not completed by the issuer, the commissioner must retain the filing fee.

(D) There has been compliance with section 6(l) of this chapter.

(E) Unless the issuer is registered under the Investment Company Act of 1940, all the following must be true at the time of the transaction:

(i) The security belongs to a class that has been in the hands of the public for at least ninety (90) days.

(ii) The issuer of the security is a going concern, is actually engaged in business, and is not in bankruptcy or receivership.

(iii) Except as permitted by order of the commissioner, the issuer and any predecessors have been in continuous operation for at least five (5) years. An issuer or predecessor is in continuous operation only if the issuer or predecessor has gross operating revenue in each of the five (5) years immediately preceding the issuer's or predecessor's claim of exemption and has had total gross operating revenue of at least two million five hundred thousand dollars ($2,500,000) for those five (5) years or has had gross operating revenue of at least five hundred thousand dollars ($500,000) in not less than three (3) of those five (5) years.

The commissioner may revoke the exemption afforded by this subdivision with respect to any securities by issuing an order:

(i) if the commissioner finds that the further sale of the securities in this state would work or tend to work a fraud on purchasers of the securities;

(ii) if the commissioner finds that the financial condition of the issuer is such that it is in the public interest and is necessary for the protection of investors to revoke or restrict the exemption afforded by this subsection; or

(iii) if the commissioner finds that, due to the limited number of shares in the hands of the public or due to the limited number of broker-dealers making a market in the securities, there is not a sufficient market for the securities so that there is not a current market price for the securities.

(4) A transaction between the issuer or other person on whose behalf the offering is made by an underwriter, or among underwriters.

(5) A transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness, is offered and sold as a unit.

(6) A transaction by an executor, administrator, personal representative, sheriff, marshal, receiver, trustee in bankruptcy, guardian, conservator, or a person acting in a trust or fiduciary capacity where the transaction is effected pursuant to the authority of or subject to approval by a court of competent jurisdiction.

(7) A transaction executed by a bona fide pledgee without any purpose of evading this chapter.

(8) An offer or sale to a bank, a savings institution, a trust company, an insurance company, an investment company (as defined in the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 80a-52)), a pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in a fiduciary capacity.

(9) The offer or sale of securities of an issuer:

(i) to a person who is:

(A) a director, an executive officer, a general partner, an administrator, or a person who performs similar functions for or who is similarly situated with respect to the issuer;

(B) a director, an executive officer, or a general partner of a general partner of the issuer; or

(C) any other natural person employed on a full-time basis by the issuer as an attorney or accountant if the person has been acting in this capacity for at least one (1) year immediately prior to the offer or sale;

(ii) to an entity affiliated with the issuer;

(iii) if the issuer is a corporation, to a person who is the owner of shares of the corporation or of an affiliated corporation representing and possessing ten percent (10%) or more of the total combined voting power of all classes of stock (of the corporation or affiliated corporation) issued and outstanding and who is entitled to vote; or

(iv) if the issuer is a limited liability company, to a person who is the owner of an interest in the limited liability company representing and possessing at least ten percent (10%) of the total combined voting power of all classes of such interests (of the limited liability company or affiliated limited liability company) issued and outstanding.

(10) The offer or sale of a security by the issuer of the security if all of the following conditions are satisfied:

(A) The issuer reasonably believes that either:

(i) there are no more than thirty-five (35) purchasers of the securities from the issuer in an offering pursuant to this subsection, including purchasers outside Indiana; or

(ii) there are no more than twenty (20) purchasers in Indiana.

In either case, there shall be excluded in determining the number of purchasers a purchaser whom the issuer reasonably believes to be an accredited investor or who purchases the securities after they are registered under this chapter.

(B) The issuer does not offer or sell the securities by means of a form of general advertisement or general solicitation.

(C) The issuer reasonably believes that each purchaser of the securities is acquiring the securities for the purchaser's own investment and is aware of any restrictions imposed on transferability and resale of the securities. The basis for reasonable belief may include:

(i) obtaining a written representation signed by the purchaser that the purchaser is acquiring the securities for the purchaser's own investment and is aware of any restrictions imposed on the transferability and resale of the securities; and

(ii) placement of a legend on the certificate or other

document that evidences the securities stating that the securities have not been registered under section 3 of this chapter, and setting forth or referring to the restrictions on transferability and sale of the securities.

(D) The issuer:

(i) files with the commissioner and provides to each purchaser in this state an offering statement that sets forth all material facts with respect to the securities; and

(ii) reasonably believes immediately before making a sale that each purchaser who is not an accredited investor either alone or with a purchaser representative has knowledge and experience in financial and business matters to the extent that the purchaser is capable of evaluating the merits and risks of the prospective investment.

(E) If the aggregate offering price of the securities in an offering pursuant to this subdivision (including securities sold outside of Indiana) does not exceed five hundred thousand dollars ($500,000), the issuer is not required to comply with clause (D) if the issuer files with the commissioner and provides to each purchaser in Indiana the following information and materials:

(i) copies of all written materials, if any, concerning the securities that have been provided by the issuer to any purchaser; and

(ii) unless clearly presented in all written materials, a written notification setting forth the name, address, and form of organization of the issuer and any affiliate, the nature of the principal businesses of the issuer and any affiliate, and the information required in section 5(b)(1)(B), 5(b)(1)(C), 5(b)(1)(D), 5(b)(1)(E), 5(b)(1)(H), and 5(b)(1)(I) of this chapter.

(F) The commissioner does not disallow the exemption provided by this subdivision within ten (10) full business days after receipt of the filing required by clause (D) or (E). The issuer may make offers (but not sales) before and during the ten (10) day period, if:

(i) each prospective purchaser is advised in writing that the offer is preliminary and subject to material change; and

(ii) no enforceable offer to purchase the securities may be made by a prospective purchaser, and no consideration in any form may be accepted or received (directly or indirectly) from a prospective purchaser, before the expiration of the ten (10) day period and the vacation of an order disallowing the exemption.

(G) The issuer need not comply with clause (D), (E), or (F) if:

(i) each purchaser has access to all the material facts with respect to the securities by reason of the purchaser's active involvement in the organization or management of the issuer or the purchaser's family relationship with a person actively involved in the organization or management of the issuer;

(ii) there are not more than fifteen (15) purchasers in Indiana and each Indiana purchaser is an accredited investor or is a purchaser described in item (i); or

(iii) the aggregate offering price of the securities, including securities sold outside Indiana, does not exceed five hundred thousand dollars ($500,000), the total number of purchasers, including purchasers outside of Indiana, does not exceed twenty-five (25) and each purchaser either receives all of the material facts with respect to the security or is an accredited investor or a purchaser described in item (i).

(H) If the issuer makes or is required to make a filing with the commissioner under clause (D) or (E), the issuer must also file with the commissioner at the time of the filing the consent to service of process required by section 16 of this chapter. The issuer shall also file with the commissioner, at the times and in the forms as the commissioner may prescribe, notices of sales made in reliance upon this subdivision.

(I) The commissioner may by rule deny exemption provided in this subdivision to a particular class of issuers, or may make the exemption available to the issuers upon compliance with additional conditions and requirements, if appropriate in furtherance of the intent of this chapter.

(11) An offer or sale of securities to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety (90) days of their issuance if no commission or other remuneration (other than a standby commission) is paid or given for soliciting a security holder in this state.

(12) An offer (but not a sale) of a security for which registration statements or applications have been filed under this chapter and the Securities Act of 1933 (15 U.S.C. 77a-77aa), if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending under either law.

(13) The deposit of shares under a voting-trust agreement and the issue of voting-trust certificates for the deposit.

(14) The offer or sale of a commodity futures contract.

(15) The offer or sale of securities to or for the benefit of security holders incident to a vote by the security holders pursuant to the articles of incorporation or applicable instrument, on a merger or share exchange under IC 23-1-40 or the laws of another state, reclassification of securities, exchange of securities under IC 28-1-7.5, or sale of assets of the issuer in consideration of the issuance of securities of the same or another issuer.

(16) A limited offering transactional exemption, which may be created by rule adopted by the commissioner. The exemption must further the objectives of compatibility with federal exemptions and uniformity among the states.

(c) The commissioner may consider and determine if a proposed sale, transaction, issue, or security is entitled to an exemption accorded by this section. The commissioner may decline to exercise the commissioner's authority as to a proposed sale, transaction, issue, or security. An interested party desiring the commissioner to exercise the commissioner's authority must submit to the commissioner a verified statement of all material facts relating to the proposed sale, transaction, issue, or security, which must be accompanied by a request for a ruling as to the particular exemption claimed, together with a filing fee of one hundred dollars ($100). After notice to the interested parties as the commissioner determines is proper and after a hearing, if any, the commissioner may enter an order finding the proposed sale, transaction, issue, or security entitled or not entitled to the exemption claimed. An order entered, unless an appeal is taken from it in the manner prescribed in section 20 of this chapter, is binding upon the commissioner and upon all interested parties, provided that the proposed sale, transaction, issue, or security when consummated or issued conforms in every relevant and material particular with the facts as set forth in the verified statement submitted.

(d) The commissioner may by order deny or revoke an exemption specified in subsection (a)(6), (a)(7), or (b) with respect to a specific security or transaction, if the commissioner finds that the securities to which the exemption applies would not qualify for registration under sections 4 and 5 of this chapter. No order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the commissioner may by order summarily deny or revoke any of the specific exemptions pending final determination of a proceeding under this subsection. Upon the entry of a summary order, the commissioner shall promptly notify all interested parties that it has been entered, of the reasons for the order, and that within fifteen (15) days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated section

3 of this chapter by reason of an offer or sale effected after the entry of an order under this subsection if the person sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the order.

(e) If, with respect to an offering of securities, any notices or written statements are required to be filed with the commissioner under subsection (b)(10), the first filing made with respect to the offering must be accompanied by a filing fee of one hundred dollars ($100).

(f) A condition, stipulation, or provision requiring a person acquiring a security to waive compliance with this chapter or a rule or order under this chapter is void.

SECTION 6. IC 23-2-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 6. (a) An application for registration may be filed by:

(1) the issuer;

(2) any other person on whose behalf the offering is to be made; or

(3) a registered broker-dealer.

(b) A person filing an application for registration shall pay a filing fee of one-twentieth of one percent (0.05%) of the maximum aggregate offering price at which the registered securities are to be offered in Indiana, but the fee may not be less than two hundred fifty dollars ($250) and may not be more than one thousand dollars ($1,000).

(c) When an application for registration under subsection (b) is withdrawn before the effective date or a preeffective stop order is entered under section 7 of this chapter, the commissioner shall retain two hundred fifty dollars ($250) of the fee.

(d) A person filing an amendment to an effective registration which requires an order of the commissioner shall pay a twenty-five dollar ($25) filing fee.

(e) An application for registration shall specify:

(1) the amount of securities to be offered in this state;

(2) the states in which a registration statement or similar document in connection with the offering has been or is to be filed; and

(3) an adverse order, judgment, or decree entered in connection with the offering by the regulatory authorities in each state or by a court or the Securities and Exchange Commission.

(f) A document filed under this chapter within five (5) years preceding the filing of an application for registration may be incorporated by reference in the application for registration if the document is currently accurate.

(g) The commissioner may by rule or otherwise permit the omission of an item of information or document from an application for registration.

(h) In the case of a nonissuer distribution, any part of the information that might otherwise be required under section 5 of this chapter or subsection (i) need not be furnished if the person filing the application for registration produces evidence to the reasonable satisfaction of the commissioner that the person, or the persons on whose behalf the distribution is to be made, cannot furnish that part of the required information without unreasonable effort or expense.

(i) A registration is effective for:

(1) two (2) years from its effective date; or

(2) a shorter period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or the person on whose behalf the offering is being made or by an underwriter or broker-dealer who is still offering part of an unsold allotment or subscription taken by the underwriter or broker-dealer as a participant in the distribution, except during the time a stop order is in effect under section 7 of this chapter.

(j) So long as a registration is effective, the commissioner may by rule or order require the person who filed the application for registration to file reports, not more often than quarterly, to keep reasonably current the information contained in the application for registration and to disclose the progress of the offering.

(k) The commissioner may by rule or order require as a condition of registration by qualification or coordination:

(1) that a security issued within the past three (3) years or to be issued to a promoter for a consideration substantially different from the public offering price, or to a person for a consideration other than cash, be deposited in escrow; and

(2) that the proceeds from the sale of the registered security be impounded until the issuer receives a specified amount.

The commissioner may by rule or order determine the conditions of an escrow or impounding required under this subsection, but the commissioner may not reject a depository solely because of location in another state.

(l) No transferable share is exempt from registration under section 2(b)(3) of this chapter or is qualified for registration under sections 4 or 5 of this chapter unless the issuer has designated a qualified transfer agent to handle all transfers. The commissioner may adopt rules to implement this subsection. The commissioner may by rule or order exempt an issuer, wholly or partially, from the requirements of this subsection.

(m) A registration statement may be amended after its effective date to increase the securities specified to be offered and sold if the public offering price and underwriters' discounts and commissions are not changed from the amounts reported to the commissioner. An amendment becomes effective upon an order of the commissioner. A person filing an amendment must pay a late registration fee of twenty-five dollars ($25) and a filing fee under subsection (b) for the additional securities proposed to be offered. An amendment relates back to the date of the sale of additional securities being registered if the amendment is filed within three (3) months after the date of the sale and the additional filing fee and late registration fee are paid.

(n) As permitted by Section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1(c)), securities that are offered and sold pursuant to Section 4(5) of the Securities Act of 1933 or that are mortgage-related securities (as that term is defined in Section 3(a)(41) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(41)):

(1) must comply with all applicable:

(A) registration and qualification requirements of this chapter; and

(B) rules adopted by the commissioner; and

(2) shall not be treated as obligations issued by the United States for the purposes of this chapter.

(o) If:

(1) the division:

(A) does not approve an application for registration by coordination or qualification; and

(B) notifies the applicant not later than ten (10) days after the date the application was not approved of a deficiency in the application that, if satisfied, would allow the approval of the application;

the applicant may satisfy the deficiency within sixty (60) days after the date described in clause (B); and

(2) an applicant does not satisfy the deficiency described in subdivision (1):

(A) the application is considered abandoned;

(B) the issuer does not receive a refund of the application fee; and

(C) no further action is required by the division.

SECTION 7. IC 23-2-1-15, AS AMENDED BY P.L.270-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 15. (a) This chapter shall be administered by a division of the office of the secretary of state. The secretary of state shall appoint a securities commissioner who shall be responsible for the direction and supervision of the division and the administration of this chapter under the direction and control of the secretary of state. The salary of the securities commissioner shall be paid out of the funds appropriated for the administration of this chapter. The commissioner shall serve at the will of the secretary of state.

(b) The secretary of state:

(1) shall employ a chief deputy, a senior investigator, a senior accountant, and other deputies, investigators, accountants, clerks, stenographers, and other employees necessary for the administration of this chapter; and

(2) shall fix their compensation with the approval of the budget agency.

The chief deputy, other deputies, the senior investigator, and the

senior accountant, once employed under this chapter, may be dismissed only for cause by the secretary of state upon ten (10) days notice in writing stating the reasons for dismissal. Within fifteen (15) days after dismissal, the chief deputy, other deputies, the senior investigator, and the senior accountant may appeal to the state personnel board. The state personnel board shall hold a hearing, and if it finds that the appealing party was dismissed for a political, social, religious, or racial reason, the appealing party shall be reinstated to the appealing party's position without loss of pay. In all other cases, if the decision is favorable to the appealing party, the secretary of state shall follow the findings and recommendations of the board, which may include reinstatement and payment of salary or wages lost. The hearing and any subsequent proceedings or appeals shall be governed by the provisions of IC 4-15-2 and IC 4-21.5.

(c) Fees and funds of whatever character accruing from the administration of this chapter shall be accounted for by the secretary of state and shall be deposited with the treasurer of state to be deposited by the treasurer of state in the general fund of the state. Expenses incurred in the administration of this chapter shall be paid from the general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, costs of investigations recovered under sections 16(d) and 17.1(c) of this chapter shall be deposited with the treasurer of state to be deposited by the treasurer of state in a separate account to be known as the securities division enforcement account. The funds in the account shall be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this chapter. The funds in the account do not revert to the general fund at the end of any fiscal year.

(d) In connection with the administration and enforcement of the provisions of this chapter, the attorney general shall render all necessary assistance to the securities commissioner upon the commissioner's request, and to that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the securities commissioner as the demands of the securities division shall require. Expenses incurred by the attorney general for the purposes stated in this subsection shall be chargeable against and paid out of funds appropriated to the attorney general for the administration of the attorney general's office.

(e) Neither the secretary of state, the securities commissioner, nor an employee of the securities division shall be liable in their individual capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this chapter.

(f) The commissioner, subject to the approval of the secretary of state, may adopt rules, orders, and forms necessary to carry out this chapter, including rules and forms concerning registration statements, applications, reports, and the definitions of any terms if the definitions are consistent with this chapter. The commissioner may by rule or order allow for exemptions from registration requirements under sections 3 and 8 of this chapter if the exemptions are consistent with the public interest and this chapter.

(g) The provisions of this chapter delegating and granting power to the secretary of state, the securities division, and the securities commissioner shall be liberally construed to the end that:

(1) the practice or commission of fraud may be prohibited and prevented;

(2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured; and

(3) the qualifications may be prescribed to assure availability of reliable broker-dealers, investment advisers, and agents engaged in and in connection with the issuance, barter, sale, purchase, transfer, or disposition of securities in this state.

It is the intent and purpose of this chapter to delegate and grant to and vest in the secretary of state, the securities division, and the securities commissioner full and complete power to carry into effect and accomplish the purpose of this chapter and to charge them with full and complete responsibility for its effective administration.

(h) It is the duty of a prosecuting attorney, as well as of the attorney general, to assist the securities commissioner upon the commissioner's request in the prosecution to final judgment of a violation of the penal provisions of this chapter and in a civil proceeding or action arising under this chapter. If the commissioner determines that an action based on the securities division's investigations is meritorious:

(1) the commissioner or a designee empowered by the commissioner shall certify the facts drawn from the investigation to the prosecuting attorney of the judicial circuit in which the crime may have been committed;

(2) the commissioner and the securities division shall assist the prosecuting attorney in prosecuting an action under this section, **which may include a securities division attorney serving as a special deputy prosecutor appointed by the prosecuting attorney;**

(3) a prosecuting attorney to whom facts concerning fraud are certified under subdivision (1) may refer the matter to the attorney general; and

(4) if a matter has been referred to the attorney general under subdivision (3), the attorney general may:

(A) file an information in a court with jurisdiction over the matter in the county in which the offense is alleged to have been committed; and

(B) prosecute the alleged offense.

(i) The securities commissioner shall take, prescribe, and file the oath of office prescribed by law. The securities commissioner, senior investigator, and each deputy are police officers of the state and shall have all the powers and duties of police officers in making arrests for violations of this chapter, or in serving any process, notice, or order connected with the enforcement of this chapter by whatever officer or authority or court issued. The securities commissioner, the deputy commissioners for enforcement, and the investigators comprise the enforcement department of the division and are considered a criminal justice agency for purposes of IC 5-2-4 and IC 10-13-3.

(j) The securities commissioner and each employee of the securities division shall be reimbursed for necessary hotel and travel expenses when required to travel on official duty. Hotel and travel reimbursements shall be paid in accordance with the travel regulations prescribed by the budget agency.

(k) It is unlawful for the secretary of state, the securities commissioner, or the securities division's employees to use for personal benefit information that is filed with or obtained by the securities division and that is not made public. No provision of this chapter authorizes the secretary of state, the securities commissioner, or the employees of the securities division to disclose information except among themselves, or when necessary or appropriate, in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from a privilege that exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the secretary of state, the securities commissioner, or the securities division or its employees.

(l) The commissioner may honor requests from interested persons for interpretative opinions and from interested persons for determinations that the commissioner will not institute enforcement proceedings against specified persons for specified activities. A determination not to institute enforcement proceedings must be consistent with this chapter. **A person may not request an interpretive opinion concerning an activity that:**

(1) occurred before; or

(2) is occurring on;

the date that the opinion is requested. The commissioner shall charge a fee of one hundred dollars ($100) for an interpretative opinion or determination.

SECTION 8. IC 23-2-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) A person who offers or sells a security in violation of this chapter, and who does not sustain the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the violation, is liable to any other party to the transaction who did not knowingly participate in the violation or who did not have, at the time of the transaction, knowledge of the violation, who may sue either at law or in equity to rescind the transaction or to recover the consideration paid, together, in either case, with interest as computed in subsection (g)(1), plus costs, and reasonable attorney's fees, less the amount of any cash or other property received on the security upon the tender of

the security by the person bringing the action or for damages if the person no longer owns the security. Damages are the amount that would be recoverable upon a tender less:

(1) the value of the security when the buyer disposed of the security; and

(2) the interest as computed in subsection (g)(1) on the value of the security from the date of disposition.

(b) A person who purchases a security in violation of this chapter, and who does not sustain the burden of proof that the person did not know and in the exercise of reasonable care could not have known of the violation, is liable to any other party to the transaction who did not knowingly participate in the violation or who did not have, at the time of the transaction, knowledge of the violation. The other party to the transaction may bring an action to rescind the transaction or for damages, together, in either case, with reasonable attorney's fees, upon the tender of the consideration received by the person bringing the action.

(c) A person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues analyses or reports concerning securities and:

(1) violates section 8, 12.1(b), ~~or~~ 14, **or 26** of this chapter;

(2) employs a device, scheme, or artifice to defraud a person; or

(3) engages in an act that operates or would operate as fraud or deceit upon a person;

is liable to the other person, who may bring an action to recover any consideration paid for advice, any loss due to advice, interest at eight percent (8%) each year from the date consideration was paid, costs, and reasonable attorney's fees less the value of cash or property received due to the advice. It is a defense to an action brought for a violation of section 12.1(b) **or 26** of this chapter that the person accused of the violation did not know of the violation and, exercising reasonable care, could not have known of the violation.

(d) A person who directly or indirectly controls a person liable under subsection (a), (b), or (c), a partner, officer, or director of the person, a person occupying a similar status or performing similar functions, an employee of a person who materially aids in the conduct creating the liability, and a broker-dealer or agent who materially aids in the conduct are also liable jointly and severally with and to the same extent as the person, unless the person who is liable sustains the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons liable.

(e) A tender specified in this section may be made at any time before entry of judgment.

(f) A cause of action under this statute survives the death of a person who might have been a plaintiff or defendant.

(g) Action under this section shall be commenced within three (3) years after discovery by the person bringing the action of a violation of this chapter, and not afterwards. No person may sue under this section:

(1) if that person received a written offer, before suit and at a time when the person owned the security, to refund the consideration paid together with interest on that amount from the date of payment to the date of repayment, with interest on:

(A) interest-bearing obligations to be computed at the same rate as provided on the security; and

(B) all other securities at the rate of eight percent (8%) per year;

less the amount of any income received on the security, and the person failed to accept the offer within thirty (30) days of its receipt; or

(2) if the person received an offer before suit and at a time when the person did not own the security, unless the person rejected the offer in writing within thirty (30) days of its receipt.

(h) No person who has made or engaged in the performance of a contract in violation of this chapter or a rule or order under this chapter, or who has acquired a purported right under a contract with knowledge of the facts by reason of which its making or performance was in violation, may base a suit on the contract.

(i) A condition, stipulation, or provision binding a person acquiring a security to waive compliance with this chapter or a rule or order under this chapter is void.

(j) The rights and remedies specifically prescribed by this chapter are the only rights and remedies created by this chapter, but are in addition to any other rights or remedies that exist at law or in equity.

SECTION 9. IC 23-2-1-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19.5. (a) If the commissioner determines, after **notice and opportunity for** a hearing, that any person has violated this chapter, the commissioner may, in addition to or in lieu of all other remedies, impose a civil penalty upon any person who has violated this chapter. This penalty may not exceed ten thousand dollars ($10,000) for each violation of this chapter found to have been committed. An appeal from the decision of the commissioner imposing a civil penalty under this subsection may be taken by any aggrieved party pursuant to section 20 of this chapter.

(b) The commissioner may bring any action in the circuit or superior court of Marion County to enforce payment of any penalty imposed under subsection (a).

(c) Penalties collected under this section shall be deposited in the securities division enforcement account established under section 15(c) of this chapter.

SECTION 10. IC 23-2-1-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26. (a) This section applies to a person engaged in the business of providing advice to others, directly or by means of analyses, reports, or other publications, concerning:**

(1) the value of securities; or

(2) the advisability of:

(A) investing in;

(B) purchasing; or

(C) selling;

securities.

(b) A person described in subsection (a) may not:

(1) employ a device, a scheme, or an artifice to defraud a person; or

(2) engage in an act, a practice, or a course of business that operates or would operate as fraud or deceit upon a person.

SECTION 11. IC 23-2-1-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 27. An administrative action under this chapter survives the death of a person who might have been a respondent.**

SECTION 12. IC 23-2-5-3, AS AMENDED BY P.L.115-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) As used in this chapter, "certificate of registration" means a certificate issued by the commissioner authorizing an individual to engage in origination activities on behalf of a licensee.

(b) As used in this chapter, "creditor" means a person:

(1) that loans funds of the person in connection with a loan; and

(2) to whom the loan is initially payable on the face of the note or contract evidencing the loan.

(c) As used in this chapter, "license" means a license issued by the commissioner authorizing a person to engage in the loan brokerage business.

(d) As used in this chapter, "licensee" means a person that is issued a license under this chapter.

(e) As used in this chapter, "loan broker" means any person who, in return for any consideration from any **source procures, attempts to procure, or assists in procuring a loan from a third party or any other** person, ~~promises to procure a loan for any person or assist any person in procuring a loan from any third party, or who promises to consider whether or not to make a loan to any person.~~ **whether or not the person seeking the loan actually obtains the loan.** "Loan broker" does not include:

(1) any bank, savings bank, trust company, savings association, credit union, or any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making

consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

~~(2) any person authorized to sell and service loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation, issue securities backed by the Government National Mortgage Association, make loans insured by the United States Department of Housing and Urban Development, act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs, or act as a correspondent of loans insured by the United States Department of Housing and Urban Development;~~

~~(3)~~ **(2)** any insurance company; or

~~(4)~~ **(3)** any person arranging financing for the sale of the person's product.

(f) As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

(g) As used in this chapter, "origination activities" means ~~establishing the terms or conditions of a loan with a borrower or prospective borrower~~ **communication with or assistance of a borrower or prospective borrower in the selection of loan products or terms.**

(h) **As used in this chapter, "originator" means a person engaged in origination activities. The term "originator" does not include a person who performs origination activities for any entity that is not a loan broker under subsection (e).**

(i) As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

~~(i)~~ **(j)** As used in this chapter, "registrant" means an individual who is registered to engage in origination activities under this chapter.

~~(j)~~ **(k)** As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls any ownership interest in a person, regardless of whether the person owns or controls the ownership interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

SECTION 13. IC 23-2-5-19, AS AMENDED BY P.L.230-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 19. (a) The following persons are exempt from the requirements of sections 4, 5, 6, 9, ~~10,~~ 17, ~~and~~ 18, **and 21** of this chapter:

(1) Any attorney while engaging in the practice of law.

(2) Any certified public accountant, public accountant, or accountant practitioner holding a certificate or registered under IC 25-2.1 while performing the practice of accountancy (as defined by IC 25-2.1-1-10).

(3) Any person licensed as a real estate broker or salesperson under IC 25-34.1 to the extent that the person is rendering loan related services in the ordinary course of a transaction in which a license as a real estate broker or salesperson is required.

(4) Any broker-dealer, agent, or investment advisor registered under IC 23-2-1.

(5) Any person that:

(A) procures;

(B) promises to procure; or

(C) assists in procuring;

a loan that is not subject to the Truth in Lending Act (15 U.S.C. 1601 through 1667e).

(6) **Any community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from the Indiana housing finance authority established by IC 5-20-1-3.**

(7) The Indiana housing finance authority.

(8) Any person authorized to:

(A) sell and service a loan for the Federal National Mortgage Association or the Federal Home Loan Mortgage Association;

(B) issue securities backed by the Government National Mortgage Association;

(C) make loans insured by the United States Department of Housing and Urban Development or the United States Department of Agriculture Rural Housing Service;

(D) act as a supervised lender or nonsupervised automatic lender of the United States Department of Veterans Affairs; or

(E) act as a correspondent of loans insured by the United States Department of Housing and Urban Development.

(9) Any person who is a creditor, or proposed to be a creditor, for any loan.

(b) As used in this chapter, "bona fide third party fee" includes fees for the following:

(1) Credit reports, investigations, and appraisals performed by a person who holds a license or certificate as a real estate appraiser under IC 25-34.1-8.

(2) If the loan is to be secured by real property, title examinations, an abstract of title, title insurance, a property survey, and similar purposes.

(3) The services provided by a loan broker in procuring possible business for a lending institution if the fees are paid by the lending institution.

(c) As used in this section, "successful procurement of a loan" means that a binding commitment from a creditor to advance money has been received and accepted by the borrower.

(d) The burden of proof of any exemption or classification provided in this chapter is on the party claiming the exemption or classification.

SECTION 14. IC 23-15-8-3, AS ADDED BY P.L.277-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) If the department of financial institutions determines that a business entity has violated IC 28-1-20-4, the department of financial institutions shall notify the secretary of state of the violation.

(b) The secretary of state shall commence a proceeding under this section to administratively dissolve a business entity if:

(1) the name of the business entity contains the word "bank", **"banc", or "banco";** and

(2) the department of financial institutions determines that the business entity violates IC 28-1-20-4.

(c) If the secretary of state commences an administrative dissolution under subsection (b), the secretary of state shall serve the business entity with written notice of the determination under subsection (b)(2). The secretary of state shall, at the same time notice is sent to the business entity, provide a copy of the notice to the department of financial institutions.

(d) If a business entity that receives a notice under subsection (c) does not:

(1) correct the grounds for dissolution; or

(2) demonstrate to the reasonable satisfaction of the department of financial institutions that the grounds for dissolution do not exist;

at any time after sixty (60) days after service of the notice is perfected, the department of financial institutions shall notify the secretary of state in writing of the continuing violation. After receiving the written notice from the department of financial institutions, the secretary of state shall administratively dissolve the business entity by signing a certificate of dissolution that recites the grounds for dissolution and the effective date of the dissolution. The secretary of state shall file the original certificate of dissolution and serve a copy of the certificate of dissolution on the business entity.

(e) A business entity administratively dissolved under this section may carry on only those activities necessary to wind up and liquidate the business entity's affairs.

SECTION 15. IC 24-4.5-1-102, AS AMENDED BY P.L.258-2003, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 102. Purposes; Rules of Construction **)** (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;

(b) to provide rate ceilings to assure an adequate supply of credit to consumers;

(c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of

consumer credit so that consumers may obtain credit at reasonable cost;

(d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;

(e) to permit and encourage the development of fair and economically sound consumer credit practices;

(f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act; and

(g) to make uniform the law including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule of the department adopted pursuant to this article.

(4) A reference to a federal law in IC 24-4.5 is a reference to the law in effect December 31, ~~2002.~~ **2003.**

SECTION 16. IC 24-4.5-1-202 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 202. This article does not apply to the following:

(1) Extensions of credit to government or governmental agencies or instrumentalities.

(2) The sale of insurance by an insurer, except as otherwise provided in the chapter on insurance (IC 24-4.5-4).

(3) Transactions under public utility, municipal utility, or common carrier tariffs if a subdivision or agency of this state or of the United States regulates the charges for the services involved, the charges for delayed payment, and any discount allowed for early payment.

(4) The rates and charges and the disclosure of rates and charges of a licensed pawnbroker established in accordance with a statute or ordinance concerning these matters.

(5) A sale of goods, services, or an interest in land in which the goods, services, or interest in land are purchased primarily for a purpose other than a personal, family, or household purpose.

(6) A loan in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.

(7) An extension of credit primarily for a business, a commercial, or an agricultural purpose.

(8) An installment agreement for the purchase of home fuels in which a finance charge is not imposed.

(9) Loans made, insured, or guaranteed under a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(10) Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(11) A loan made:

(A) in compliance with the requirements of; and

(B) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from;

the Indiana housing finance authority established by IC 5-20-1-3.

SECTION 17. IC 24-4.5-7-104, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 104. "Small loan" means a loan:

(a) with a principal loan amount that is ~~more than~~ **at least** fifty dollars ($50) and ~~less than four~~ **not more than five** hundred ~~one~~ dollars ~~($401);~~ **($500);** and

(b) in which the lender holds the borrower's check **or receives the borrower's written authorization to debit the borrower's account** under an agreement, either express or implied, for a specific period before the lender:

(i) offers the check for deposit or presentment; or

(ii) ~~seeks~~ **exercises the** authorization to ~~transfer or withdraw funds from~~ **debit** the borrower's account.

SECTION 18. IC 24-4.5-7-105, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 105. "Principal" means the total of:

(a) the net amount paid to, receivable by, or paid or payable from the account of the ~~consumer,~~ **borrower;** and

(b) to the extent that the payment is deferred, the additional charges permitted by this chapter that are not included in subdivision (a).

SECTION 19. IC 24-4.5-7-107, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 107. "Renewal" refers to a small loan that takes the place of an existing small loan by:

(a) renewing;

(b) repaying;

(c) refinancing; or

(d) consolidating;

a small loan with the proceeds of another small loan made to the same ~~consumer~~ **borrower** by a lender.

SECTION 20. IC 24-4.5-7-108, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 108. "Consecutive small loan" means a new small loan agreement that the lender enters with the same ~~consumer~~ **borrower** not later than seven (7) calendar days after a previous small loan made to that ~~customer~~ **borrower** is paid in full.

SECTION 21. IC 24-4.5-7-109, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 109. "Paid in full" means the termination of a small loan through:

(1) the payment of the ~~consumer's~~ **borrower's** check by the drawee bank or authorized electronic transfer;

(2) the return of a check to a ~~consumer~~ **borrower** who redeems it for consideration;

(3) the authorized debiting of the borrower's account; or

(4) any other method of termination.

SECTION 22. IC 24-4.5-7-110, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 110. "Monthly ~~net~~ **gross** income" means the income received by the ~~consumer~~ **borrower** in the ~~four (4) week~~ **thirty (30) day** period preceding the ~~consumer's~~ **borrower's** application for a small loan under this chapter and exclusive of any income other than regular ~~net~~ **gross** pay received, or as otherwise determined by the department.

SECTION 23. IC 24-4.5-7-201, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 201. (1) Finance charges on the first ~~one~~ **two** hundred **fifty** dollars ~~($100)~~ **($250)** of a small loan are limited to fifteen percent (15%) of the principal.

(2) Finance charges on the amount of a small loan greater than ~~one~~ **two** hundred **fifty** dollars ~~($100)~~ **($250) and less than or equal to four hundred dollars ($400)** are limited to ~~ten~~ **thirteen** percent ~~(10%)~~ **(13%)** of the amount over ~~one~~ **two** hundred **fifty** dollars ~~($100).~~ **($250) and less than four hundred dollars ($400).**

(3) ~~The total amount of finance charges may not exceed thirty-five dollars ($35).~~ **Finance charges on the amount of the small loan greater than four hundred dollars ($400) and less than or equal to five hundred dollars ($500) are limited to ten percent (10%) of the amount over four hundred dollars ($400) and less than five hundred dollars ($500).**

SECTION 24. IC 24-4.5-7-202, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 202. (1) Notwithstanding any other law, ~~only the following fees~~ **the only fee that** may be contracted for and received by the lender on a small loan ~~or subsequent refinancing:~~

~~(a) The parties may contract for a delinquency charge of not more than five dollars ($5) on any installment not paid in full within ten (10) days after its scheduled due date.~~

~~(b) A delinquency charge under this section may be collected only once on an installment, however long it remains in default. A delinquency charge may be collected any time after it accrues.~~

~~(2) an additional charge may be made~~ **is a charge,** not to exceed twenty dollars ($20), for each:

(a) return by a bank or other depository institution of a:

(i) dishonored check;

(ii) negotiable order of withdrawal; or

(iii) share draft issued by the ~~consumer,~~ **borrower; or**

(b) time an authorization to debit the borrower's account is

dishonored.

This additional charge may be assessed one (1) time regardless of how many times a check **or an authorization to debit the borrower's account** may be submitted by the lender and dishonored.

SECTION 25. IC 24-4.5-7-301, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 301. (1) For purposes of this section, the lender shall disclose to the ~~consumer~~ **borrower** to whom credit is extended with respect to a small loan the information required by the Federal Consumer Credit Protection Act.

(2) In addition to the requirements of subsection (1), the lender must conspicuously display in bold type a notice to the public both in the lending area of each business location and in the loan documents the following statement:

"WARNING: A small loan is not intended to meet long term financial needs. A small loan should be used only to meet short term cash needs. ~~Renewing the small loan rather than paying the debt in full will require additional finance charges.~~ The cost of your small loan may be higher than loans offered by other lending institutions. Small loans are regulated by the State of Indiana Department of Financial Institutions.

A ~~consumer~~ **borrower** may rescind a small loan without cost not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a ~~consumer~~ **borrower** must inform the lender that the ~~consumer~~ **borrower** wants to rescind the small loan, and the ~~consumer~~ **borrower** must return the cash amount of the principal of the small loan to the lender.".

(3) The statement required in subsection (2) must be in:

(a) 14 point bold face type in the loan documents; and

(b) not less than one (1) inch bold print in the lending area of the business location.

(4) When a borrower enters into a small loan, the lender shall provide the borrower with a pamphlet approved by the department that describes:

(a) the availability of debt management and credit counseling services; and

(b) the borrower's rights and responsibilities in the transaction.

SECTION 26. IC 24-4.5-7-401, AS AMENDED BY P.L.258-2003, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 401. (1) ~~Except as provided in subsection (2),~~ A small loan may not be made for a term of less than fourteen (14) days.

(2) After the ~~consumer's third~~ **borrower's fifth** consecutive small loan, another small loan may not be made to that ~~consumer~~ **borrower** within seven (7) days after the **due** date of the ~~third~~ **fifth** consecutive small loan. ~~unless the new small loan is for a term of twenty-eight (28) days or longer.~~ **After the borrower's fifth consecutive small loan, the balance must be paid in full. However, the borrower and lender may agree to enter into a simple interest loan, payable in installments, under IC 24-4.5-3 within seven (7) days after the due date of the fifth consecutive small loan.**

SECTION 27. IC 24-4.5-7-402, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 402. (1) A lender is prohibited from making a small loan to a ~~consumer~~ **borrower** if the total payable amount of the small loan exceeds ~~twenty~~ **fifteen** percent ~~(20%)~~ **(15%)** of the ~~consumer's~~ **borrower's** monthly ~~net~~ **gross** income.

(2) A small loan may be secured by only one (1) check or ~~electronic~~ **authorization to** debit **the borrower's account** per small loan. The check or electronic debit may not exceed the amount advanced to or on behalf of the ~~consumer~~ **borrower** plus loan finance charges contracted for and permitted.

(3) A ~~consumer~~ **borrower** may make partial payments in any amount on the small loan without charge at any time before the due date of the small loan. After each payment is made on a small loan, whether the payment is in part or in full, the lender shall give a signed and dated receipt to the ~~consumer~~ **borrower** making a payment showing the amount paid and the balance due on the small loan.

(4) The lender shall provide to each ~~consumer~~ **borrower** a copy of the required loan documents before the disbursement of the loan proceeds.

(5) A ~~consumer~~ **borrower** may rescind a small loan without cost not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a ~~consumer~~ **borrower** must:

(a) inform the lender that the ~~consumer~~ **borrower** wants to rescind the small loan; and

(b) return the cash amount of the principal of the small loan to the lender.

(6) A lender shall not enter into a renewal with a borrower. If a loan is paid in full, a subsequent loan is not a renewal.

SECTION 28. IC 24-4.5-7-404, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 404. (1) **As used in this section, "commercially reasonable method of verification" means one (1) or more private consumer credit reporting services that the department determines to be capable of providing a lender with adequate verification information necessary to ensure compliance with subsection (4).**

(2) With respect to a small loan, ~~or subsequent refinancing,~~ no lender may permit a person to become obligated under more than one (1) loan agreement with the lender at any time.

~~(2)~~ **(3)** A lender shall not make a small loan ~~or subsequent refinancing~~ that, when combined with another outstanding small loan owed to another lender, exceeds a total of ~~four~~ **five** hundred dollars ~~($400)~~ **($500)** when the face amounts of the checks written **or debits authorized** in connection with each loan are combined into a single sum. A lender shall not make a small loan to a ~~consumer~~ **borrower** who has two (2) or more small loans outstanding, regardless of the total value of the small loans.

~~(3)~~ **(4)** A lender complies with subsection ~~(2)~~ **(3)** if the ~~consumer~~ **borrower** represents in writing that the ~~consumer~~ **borrower** does not have any outstanding small loans with the lender, ~~or with any other~~ **another** lender, **an affiliate of the lender or another lender, or a separate entity involved in a business association with the lender or another lender in making small loans,** and the lender independently verifies the accuracy of the ~~consumer's~~ **borrower's** written representation through **a** commercially reasonable ~~means.~~ **method of verification.** A lender's method of verifying whether a ~~consumer~~ **borrower** has any outstanding small loans will be considered commercially reasonable if the method includes a manual investigation or an electronic query of:

(a) the lender's own records, including both records maintained at the location where the ~~consumer~~ **borrower** is applying for the transaction and records maintained at other locations within the state that are owned and operated by the lender; and

(b) available ~~department approved~~ **third party** databases.

(5) The department shall monitor the effectiveness of private consumer credit reporting services in providing the verification information required under subsection (4). If the department determines that one (1) or more commercially reasonable methods of verification are available, the department shall:

(a) provide reasonable notice to all lenders identifying the commercially reasonable methods of verification that are available; and

(b) require each lender to use one (1) of the identified commercially reasonable methods of verification as a means of complying with subsection (4).

~~(4)~~ **(6)** The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for purposes of the provisions concerning effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions concerning civil actions by the department (IC 24-4.5-6-113).

SECTION 29. IC 24-4.5-7-406, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 406. An agreement with respect to a small loan may not provide for charges as a result of default by the ~~consumer~~ **borrower** other than those authorized by this chapter. A provision in violation of this section is unenforceable.

SECTION 30. IC 24-4.5-7-409, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 409. (1) This section applies to licensees and unlicensed persons.

(2) **The following apply to small loans only when a check or an**

authorization to debit a borrower's account is used to defraud another person:

(a) IC 26-1-3.1-502.5 **(surcharge after dishonor).**

(b) IC 26-2-7 **(penalties for stopping payments or permitting dishonor of checks and drafts).**

(c) IC 34-4-30 (before its repeal).

(d) IC 34-24-3 ~~and~~ **(treble damages allowed in certain civil actions by crime victims).**

(e) IC 35-43-5 ~~apply to small loans only when a check is used to defraud another person.~~ **(forgery, fraud, and other deceptions).**

(f) IC 24-4.5-3-404 **(attorney's fees)** does not apply to a small loan.

(3) A contractual agreement in a small loan transaction must include the language of subsection (2) in 14 point bold type.

(4) A person who violates this chapter:

(a) is subject to a civil penalty up to ~~one~~ **two** thousand dollars ~~($1,000)~~ **($2,000)** imposed by the department;

(b) is subject to the remedies provided in IC 24-4.5-5-202;

(c) commits a deceptive act under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5;

(d) has no right to collect, receive, or retain any principal, interest, or other charges from a small loan; however, this subdivision does not apply if the violation is the result of an accident or bona fide error of computation; and

(e) is liable to the ~~consumer~~ **borrower** for actual damages, statutory damages of ~~one~~ **two** thousand dollars ~~($1,000)~~ **($2,000)** per violation, costs, and attorney's fees; however, this subdivision does not apply if the violation is the result of an accident or bona fide error of computation.

(5) The department may sue:

(a) to enjoin any conduct that constitutes or will constitute a violation of this chapter; and

(b) for other equitable relief.

(6) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a ~~consumer.~~ **borrower.** A ~~consumer~~ **borrower** is not required to exhaust any administrative remedies under this section or any other applicable law.

SECTION 31. IC 24-4.5-7-410, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 410. A lender making small loans shall not commit nor cause to be committed any of the following acts:

(a) Threatening to use or using the criminal process in any state to collect on a small loan.

(b) Threatening to take action against a ~~consumer~~ **borrower** that is prohibited by this chapter.

(c) Making a misleading or deceptive statement regarding a small loan or a consequence of taking a small loan.

(d) Contracting for and collecting attorney's fees on small loans made under this chapter.

(e) Altering the date or any other information on a check **or an authorization to debit the borrower's account** held as security.

(f) Using a device or agreement that **the department determines** would have the effect of charging or collecting more fees, charges, or interest than allowed by this chapter, including, but not limited to:

(i) entering a different type of transaction with the ~~consumer;~~ **borrower;**

(ii) entering into a sales/leaseback arrangement;

(iii) catalog sales; ~~or~~

(iv) **entering into transactions in which a customer receives a purported cash rebate that is advanced by someone offering Internet content services, or some other product or service, when the cash rebate does not represent a discount or an adjustment of the purchase price for the product or service; or**

(v) entering any other transaction with the ~~consumer~~ **borrower** that is designed to evade the applicability of this chapter.

(g) Engaging in unfair, deceptive, or fraudulent practices in the making or collecting of a small loan.

(h) Charging to cash a check representing the proceeds of a small loan.

(i) Except as otherwise provided in this chapter:

(i) accepting the proceeds of a new small loan as payment of an existing small loan provided by the same lender; or

(ii) renewing, refinancing, or consolidating a small loan with the proceeds of another small loan made by the same lender.

(j) Including any of the following provisions in a loan document:

(i) A hold harmless clause.

(ii) A confession of judgment clause.

(iii) A mandatory arbitration clause, unless the terms and conditions of the arbitration have been approved by the director of the department.

(iv) An assignment of or order for payment of wages or other compensation for services.

(v) A provision in which the ~~consumer~~ **borrower** agrees not to assert a claim or defense arising out of contract.

(vi) A waiver of any provision of this chapter.

(k) Selling insurance of any kind in connection with the making or collecting of a small loan.

(l) Entering into a renewal with a borrower.

SECTION 32. IC 24-4.5-7-412, AS ADDED BY P.L.38-2002, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 412. Upon the receipt of a check from a ~~consumer~~ **borrower** for a small loan, the lender shall immediately stamp the back of the check with an endorsement that states:

"This check is being negotiated as part of a small loan under IC 24-4.5, and any holder of this check takes it subject to the claims and defenses of the maker.".

SECTION 33. IC 24-9 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]:

ARTICLE 9. HOME LOAN PRACTICES

Chapter 1. Application

Sec. 1. Except for IC 24-9-3-7(3), this article does not apply to:

(1) a loan made or acquired by a person organized or chartered under the laws of this state, any other state, or the United States relating to banks, trust companies, savings associations, savings banks, credit unions, or industrial loan and investment companies; or

(2) a loan:

(A) that can be purchased by the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the Federal Home Loan Bank;

(B) to be insured by the United States Department of Housing and Urban Development;

(C) to be guaranteed by the United States Department of Veterans Affairs;

(D) to be made or guaranteed by the United States Department of Agriculture Rural Housing Service;

(E) to be funded by the Indiana housing finance authority; or

(F) with a principal amount that exceeds the conforming loan size limit for a single family dwelling as established by the Federal National Mortgage Association.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Benchmark rate" means the interest rate established under Section 152 of the Federal Home Ownership and Equity Protection Act of 1994 (15 U.S.C. 1602 (aa)) and the regulations adopted under that act by the Federal Reserve Board, including 12 CFR 226.32 and the Official Staff Commentary to the regulations as amended.

Sec. 3. "Bona fide discount points" means loan discount points that:

(1) are knowingly paid by the borrower;

(2) are paid for the express purpose of reducing the interest rate applicable to the loan;

(3) reduce the interest rate from an interest rate that does

not exceed the benchmark rate; and

(4) are recouped within the first four (4) years of the scheduled loan payments;

if the reduction in the interest rate that is achieved by the payment of the loan discount points reduces the interest charged on the scheduled payments so that the borrower's dollar amount of savings in interest during the first four (4) years of the loan is equal to or greater than the dollar amount of loan discount points paid by the borrower.

Sec. 4. "Borrower" means a person obligated to repay a home loan, including a coborrower, cosigner, or guarantor.

Sec. 5. "Bridge loan" means temporary or short term financing with a maturity of less than eighteen (18) months that requires payments of interest only until the entire unpaid balance is due and payable.

Sec. 6. (a) "Creditor" means:

(1) a person:

(A) who regularly extends consumer credit that is subject to a finance charge or that is payable by written agreement in more than four (4) installments; and

(B) to whom the debt arising from a home loan transaction is initially payable; or

(2) a person who brokers a home loan, including a person who:

(A) directly or indirectly solicits, processes, places, or negotiates home loans for others;

(B) offers to solicit, process, place, or negotiate home loans for others; or

(C) closes home loans that may be in the person's own name with funds provided by others and that are thereafter assigned to the person providing funding for the loans.

(b) The term does not include:

(1) a servicer;

(2) a state or local housing finance authority;

(3) any other state or local governmental or quasi-governmental entity; or

(4) an attorney providing legal services in association with the closing of a home loan.

Sec. 7. (a) "Deceptive act" means an act or a practice as part of a consumer credit mortgage transaction involving real property located in Indiana in which a person at the time of the transaction knowingly or intentionally:

(1) makes a material misrepresentation; or

(2) conceals material information regarding the terms or conditions of the transaction.

(b) For purposes of this section, "knowingly" means having actual knowledge at the time of the transaction.

Sec. 8. (a) "High cost home loan" means a home loan with:

(1) a trigger rate that exceeds the benchmark rate; or

(2) total points and fees that exceed:

(A) five percent (5%) of the loan principal for a home loan having a loan principal of at least forty thousand dollars ($40,000); or

(B) six percent (6%) of the loan principal for a home loan having a loan principal of less than forty thousand dollars ($40,000).

(b) Beginning July 1, 2006, the dollar amounts set forth in this section are subject to change at the times and according to the procedure set forth in the provisions of IC 24-4.5-1-106 concerning the adjustment of dollar amounts in IC 24-4.5.

Sec. 9. "Home loan" means a loan, other than an open end credit plan or a reverse mortgage transaction, that is secured by a mortgage or deed of trust on real estate in Indiana on which there is located or will be located a structure or structures:

(1) designed primarily for occupancy of one (1) to four (4) families; and

(2) that is or will be occupied by a borrower as the borrower's principal dwelling.

Sec. 10. (a) Except as provided in subsection (b), "points and fees" means the total of the following:

(1) Points and fees (as defined in 12 CFR 226.32(b)(1) on January 1, 2004).

(2) All compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in the broker's own name.

As used in subdivision (2), "compensation" does not include a payment included in subdivision (1).

(b) The term does not include the following:

(1) Bona fide discount points.

(2) An amount not to exceed one and one-half (1 1/2) points in indirect broker compensation, if the terms of the loan do not include a prepayment penalty that exceeds two percent (2%) of the home loan principle.

(3) Reasonable fees paid to an affiliate of the creditor.

(4) Interest prepaid by the borrower for the month in which the home loan is closed.

Sec. 11. "Political subdivision" means a municipality, school district, public library, local housing authority, fire protection district, public transportation corporation, local building authority, local hospital authority or corporation, local airport authority, special service district, special taxing district, or any other type of local governmental corporate entity.

Sec. 12. "Rate" means the interest rate charged on a home loan, based on an annual simple interest yield.

Sec. 13. "Total loan amount" means the principal of the home loan minus the points and fees that are included in the principal amount of the loan.

Sec. 14. "Trigger rate" means:

(1) for fixed rate home loans in which the interest rate will not vary during the term of the loan, the rate as of the date of closing;

(2) for home loans in which the interest varies according to an index, the sum of the index rate as of the date of closing plus the maximum margin permitted at any time under the loan agreement; or

(3) for all other home loans in which the rate may vary at any time during the term of the loan, the maximum rate that may be charged during the term of the home loan.

Chapter 3. Prohibited Lending Practices Generally

Sec. 1. (a) A creditor making a home loan may not finance, directly or indirectly, any:

(1) credit life insurance;

(2) credit disability insurance;

(3) credit unemployment insurance;

(4) credit property insurance; or

(5) payments directly or indirectly for any cancellation suspension agreement or contract.

(b) Insurance premiums, debt cancellation fees, or suspension fees calculated and paid on a monthly basis are not considered to be financed by the creditor for purposes of this chapter.

Sec. 2. (a) A creditor may not knowingly or intentionally replace or consolidate a zero (0) interest rate or other subsidized low rate loan made by a governmental or nonprofit lender with a high cost home loan within the first ten (10) years of the subsidized low rate loan unless the current holder of the loan consents in writing to the refinancing.

(b) For purposes of this section, a "subsidized low rate loan" is a loan that carries a current interest rate of at least two (2) percentage points below the current yield on treasury securities with a comparable maturity. If the loan's current interest rate is either a discounted introductory rate or a rate that automatically steps up over time, the fully indexed rate or the fully stepped up rate, as appropriate, should be used instead of the current rate to determine whether a loan is a subsidized low rate loan.

(c) Each mortgage or deed of trust securing a zero (0) interest rate or other subsidized low rate loan executed after January 1, 2005, must prominently display the following on the face of the instrument:

"This instrument secures a zero (0) interest rate or other subsidized low rate loan subject to IC 24-9-3-2.".

(d) A creditor may reasonably rely on the presence or absence of the statement described in subsection (c) on the face of an instrument executed after January 1, 2005, as conclusive proof of the existence or nonexistence of a zero (0) interest rate or other subsidized low rate loan.

Sec. 3. A creditor may not recommend or encourage default on an existing loan or other debt before and in connection with the

closing or planned closing of a home loan that refinances all or part of the existing loan or debt.

Sec. 4. A creditor shall treat each payment made by a borrower in regard to a home loan as posted on the same business day as the payment was received by the creditor, servicer, or creditor's agent, or at the address provided to the borrower by the creditor, servicer, or creditor's agent for making payments.

Sec. 5. (a) A home loan agreement may not contain a provision that permits the creditor, in the creditor's sole discretion, to accelerate the indebtedness without material cause.

(b) This section does not prohibit acceleration of a home loan in good faith due to the borrower's failure to abide by the material terms of the loan.

Sec. 6. (a) A creditor may not charge a fee for informing or transmitting to a person the balance due to pay off a home loan or to provide a written release upon prepayment. A creditor must provide a payoff balance not later than ten (10) business days after the request is received by the creditor.

(b) For purposes of this section, "fee" does not include actual charges incurred by a creditor for express or priority delivery requested by the borrower of home loan documents to the borrower.

Sec. 7. A person may not:

(1) divide a loan transaction into separate parts with the intent of evading a provision of this article;

(2) structure a home loan transaction as an open-end loan with the intent of evading the provisions of this article if the loan would be a high cost home loan if the home loan had been structured as a closed-end loan; or

(3) engage in a deceptive act in connection with a home loan.

Sec. 8. A person seeking to enforce section 7(3) of this chapter, may not knowingly or intentionally intimidate, coerce, or harass another person.

Sec. 9. It is unlawful for a creditor to discriminate against any applicant with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, or age, if the applicant has the ability to contract.

Chapter 4. Additional Prohibitions for High Cost Home Loans

Sec. 1. The following additional limitations and prohibited practices apply to a high cost home loan:

(1) A creditor making a high cost home loan may not directly or indirectly finance any points and fees.

(2) Prepayment fees or penalties may not be included in the loan documents for a high cost home loan or charged to the borrower if the fees or penalties exceed in total two percent (2%) of the high cost home loan amount prepaid during the first twenty-four (24) months after the high cost home loan closing.

(3) A prepayment penalty may not be contracted for after the second year following the high cost home loan closing.

(4) A creditor may not include a prepayment penalty fee in a high cost home loan unless the creditor offers the borrower the option of choosing a loan product without a prepayment fee. The terms of the offer must be made in writing and must be initialed by the borrower. The document containing the offer must be clearly labeled in large bold type and must include the following disclosure:

"LOAN PRODUCT CHOICE

I was provided with an offer to accept a product both with and without a prepayment penalty provision. I have chosen to accept the product with a prepayment penalty.".

(5) A creditor shall not sell or otherwise assign a high cost home loan without furnishing the following statement to the purchaser or assignee:

"NOTICE: This is a loan subject to special rules under IC 24-9. Purchasers or assignees may be liable for all claims and defenses with respect to the loan that the borrower could assert against the lender.".

(6) A mortgage or deed of trust that secures a high cost home loan at the time the mortgage or deed of trust is recorded must prominently display the following on the face of the instrument:

"This instrument secures a high cost home loan as defined in IC 24-9-2-8.".

(7) A creditor making a high cost home loan may not finance, directly or indirectly, any life or health insurance.

Sec. 2. A creditor may not knowingly or intentionally:

(1) refinance a high cost home loan by charging points and fees on the part of the proceeds of the new high cost home loan that is used to refinance the existing high cost loan within four (4) years of the origination of the existing high cost home loan; or

(2) divide a home loan transaction into multiple transactions with the effect of evading this article. Where multiple transactions are involved, the total points and fees charged in all transactions shall be considered when determining whether the protections of this section apply.

Sec. 3. Notwithstanding IC 24-4.5-3-402, a high cost home loan agreement may not require a scheduled payment that is more than twice as large as the average of earlier scheduled monthly payments under the high cost home loan agreement unless the payment becomes due and payable at least one hundred twenty (120) months after the date of the high cost home loan. This prohibition does not apply if:

(1) the payment schedule is adjusted to account for the seasonal or irregular income of the borrower; or

(2) the loan is a bridge loan connected with or related to the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

Sec. 4. (a) Except as provided in subsection (b), a high cost home loan may not include payment terms under which the outstanding principal balance will increase at any time over the course of the high cost home loan because the regular periodic payments do not cover the full amount of interest due.

(b) This section does not apply to a temporary forbearance that is requested by a borrower regarding a high cost home loan.

Sec. 5. A high cost home loan may not contain a provision that increases the interest rate after default. However, this section does not apply to interest rate changes in a variable rate loan otherwise consistent with the provisions of the high cost home loan documents if the change in the interest rate is not triggered by the event of default or the acceleration of the indebtedness.

Sec. 6. A high cost home loan may not include terms under which more than two (2) periodic payments required under the high cost home loan are consolidated and paid in advance from the high cost home loan proceeds provided to the borrower.

Sec. 7. A creditor may not make a high cost home loan without first providing the borrower information to facilitate contact with a nonprofit counseling agency certified by:

(1) the United States Department of Housing and Urban Development; or

(2) the department of commerce under IC 4-4-3-8(b)(15);

at the same time as the good faith estimates are provided to the borrower in accordance with the requirements of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) as amended.

Sec. 8. (a) A creditor may not make a high cost home loan without regard to repayment ability.

(b) If a creditor presents evidence that the creditor followed commercially reasonable practices in determining the borrower's debt to income ratio, there is a rebuttable presumption that the creditor made the high cost home loan with due regard to repayment ability. For purposes of this section, there is a rebuttable presumption that the borrower's statement of income provided to the creditor is true and complete.

(c) Commercially reasonable practices include the use of:

(1) the debt to income ratio:

(A) listed in 38 CFR 36.4337(c)(1); and

(B) defined in 38 CFR 36.4337(d); and

(2) the residual income guidelines established under:

(A) 38 CFR 36.4337(e); and

(B) United States Department of Veterans Affairs form 26-6393.

Sec. 9. A creditor may not pay a contractor under a home improvement contract from the proceeds of a high cost home loan unless:

(1) the creditor is presented with a signed and dated

completion certificate showing that the home improvements have been completed; and

(2) the instrument is payable to the borrower or jointly to the borrower and the contractor or, at the election of the borrower, through a third party escrow agent under a written agreement signed by the borrower, the creditor, and the contractor before the disbursement.

Sec. 10. A creditor may not charge a borrower any fees or other charges to modify, renew, extend, or amend a high cost home loan or to defer a payment due under the terms of a high cost home loan.

Sec. 11. A creditor may not make a high cost home loan unless the creditor has given the following notice, in writing, to the borrower not later than the time that notice is required under 12 CFR 226.31(c):

"NOTICE TO BORROWER

YOU SHOULD BE AWARE THAT YOU MIGHT BE ABLE TO OBTAIN A LOAN AT A LOWER COST. YOU SHOULD COMPARE LOAN RATES, COSTS, AND FEES. MORTGAGE LOAN RATES AND CLOSING COSTS AND FEES VARY BASED ON MANY FACTORS, INCLUDING YOUR PARTICULAR CREDIT AND FINANCIAL CIRCUMSTANCES, YOUR EMPLOYMENT HISTORY, THE LOAN-TO-VALUE REQUESTED, AND THE TYPE OF PROPERTY THAT WILL SECURE YOUR LOAN. THE LOAN RATE, COSTS, AND FEES COULD ALSO VARY BASED ON WHICH CREDITOR OR BROKER YOU SELECT.

IF YOU ACCEPT THE TERMS OF THIS LOAN, THE CREDITOR WILL HAVE A MORTGAGE LIEN ON YOUR HOME. YOU COULD LOSE YOUR HOME AND ANY MONEY YOU HAVE PAID IF YOU DO NOT MEET YOUR PAYMENT OBLIGATIONS UNDER THE LOAN. YOU SHOULD CONSULT AN ATTORNEY AND A QUALIFIED INDEPENDENT CREDIT COUNSELOR OR OTHER EXPERIENCED FINANCIAL ADVISER REGARDING THE RATE, FEES, AND PROVISIONS OF THIS MORTGAGE LOAN BEFORE YOU PROCEED. A LIST OF QUALIFIED COUNSELORS IS AVAILABLE FROM THE INDIANA DEPARTMENT OF COMMERCE. YOU ARE NOT REQUIRED TO COMPLETE THIS LOAN AGREEMENT MERELY BECAUSE YOU HAVE RECEIVED THIS DISCLOSURE OR HAVE SIGNED A LOAN APPLICATION. REMEMBER, PROPERTY TAXES AND HOMEOWNER'S INSURANCE ARE YOUR RESPONSIBILITY. NOT ALL CREDITORS PROVIDE ESCROW SERVICES FOR THESE PAYMENTS. YOU SHOULD ASK YOUR CREDITOR ABOUT THESE SERVICES.

ALSO, YOUR PAYMENTS ON EXISTING DEBTS CONTRIBUTE TO YOUR CREDIT RATINGS. YOU SHOULD NOT ACCEPT ANY ADVICE TO IGNORE YOUR REGULAR PAYMENTS TO YOUR EXISTING CREDITORS.".

Sec. 12. Without regard to whether a borrower is acting individually or on behalf of others similarly situated, a provision of a high cost home loan agreement that:

(1) requires arbitration of a claim or defense;

(2) allows a party to require a borrower to assert a claim or defense in a forum that is:

(A) less convenient;

(B) more costly; or

(C) more dilatory;

for the resolution of the dispute than an Indiana court in which the borrower may otherwise bring a claim or defense; or

(3) limits in any way any claim or defense the borrower may have;

is unconscionable and void.

Chapter 5. Claims, Defenses, Remedies

Sec. 1. (a) A person who purchases or is otherwise assigned a high cost home loan is subject to all affirmative claims and any defenses with respect to the high cost home loan that the borrower could assert against a creditor or broker of the high cost home loan. However, this section does not apply if the purchaser or assignee demonstrates by a preponderance of the evidence that a reasonable person exercising ordinary due diligence could not determine that the loan was a high cost home loan. A purchaser or an assignee is presumed to have exercised reasonable due diligence if the purchaser or assignee:

(1) has in place at the time of the purchase or assignment of the subject loans, policies that expressly prohibit the purchase or acceptance of the assignment of any high cost home loans;

(2) requires by contract that a seller or an assignor of home loans to the purchaser or assignee represents and warrants to the purchaser or assignee that either:

(A) the seller or assignor will not sell or reassign any high cost home loans to the purchaser or assignee; or

(B) the seller or assignor is a beneficiary of a representation and warranty from a previous seller or assignor to that effect;

(3) exercises reasonable due diligence:

(A) at the time of purchase or assignment of home loans; or

(B) within a reasonable period after the purchase or assignment of home loans;

intended by the purchaser or assignee to prevent the purchaser or assignee from purchasing or taking assignment of any high cost home loans; or

(4) satisfies the requirements of subdivisions (1) and (2) and establishes that a reasonable person exercising ordinary due diligence could not determine that the loan was a high cost home loan based on the:

(A) documentation required by the federal Truth in Lending Act (15 U.S.C. 1601 et seq.); and

(B) itemization of the amount financed and other disbursement disclosures.

(b) A borrower acting only in an individual capacity may assert against the creditor or any subsequent holder or assignee of a high cost home loan:

(1) a violation of IC 24-9-4-2 as a defense, claim, or counterclaim, after:

(A) an action to enjoin foreclosure or to preserve or obtain possession of the dwelling that secures the loan is initiated;

(B) an action to collect on the loan or foreclose on the collateral securing the loan is initiated; or

(C) the loan is more than sixty (60) days in default;

within three (3) years after the closing of a home loan;

(2) a violation of this article in connection to the high cost home loan as a defense, claim, or counterclaim in an original action within five (5) years after the closing of a high cost home loan; and

(3) any defense, claim, counterclaim, or action to enjoin foreclosure or preserve or obtain possession of the home that secures the loan, including a violation of this article after:

(A) an action to collect on the loan or foreclose on the collateral securing the loan is initiated;

(B) the debt arising from the loan is accelerated; or

(C) the loan is more than sixty (60) days in default;

at any time during the term of a high cost home loan.

(c) In an action, a claim, or a counterclaim brought under subsection (b), the borrower may recover only amounts required to reduce or extinguish the borrower's liability under a home loan plus amounts required to recover costs, including reasonable attorney's fees.

(d) The provisions of this section are effective notwithstanding any other provision of law. This section shall not be construed to limit the substantive rights, remedies, or procedural rights available to a borrower against any creditor, assignee, or holder under any other law. The rights conferred on borrowers by subsections (a) and (b) are independent of each other and do not limit each other.

Sec. 2. (a) If a creditor asserts that grounds for acceleration under the terms of a high cost home loan exist and requires the payment in full of all sums secured by the security instrument,

the borrower or a person authorized to act on the borrower's behalf at any time before the title is transferred by means of foreclosure, judicial proceeding and sale, or otherwise may cure the default and reinstate the high cost home loan by tendering the amount or performance as specified in the security instrument.

(b) If the borrower cures the default on a high cost home loan, the original loan terms shall be reinstated, and any acceleration of any obligation under the security instrument or note arising from the default is nullified as of the date of the cure.

Sec. 3. (a) A creditor making a high cost home loan that has the right to foreclose must use the judicial foreclosure procedures of the state in which the property securing the high cost home loan is located. The borrower has the right to assert in the proceeding the nonexistence of a default and any other claim or defense to acceleration and foreclosure, including any claim or defense based on any violations of this article.

(b) This section is not intended and shall not be construed to allow any claim or defense otherwise barred by any statute of limitation or repose.

Sec. 4. (a) A person who violates this article is liable to a person who is a party to the home loan transaction that gave rise to the violation for the following:

(1) Actual damages, including consequential damages. A person is not required to demonstrate reliance in order to receive actual damages.

(2) Statutory damages equal to two (2) times the finance charges agreed to in the home loan agreement.

(3) Costs and reasonable attorney's fees.

(b) A person may be granted injunctive, declaratory, and other equitable relief as the court determines appropriate in an action to enforce compliance with this chapter.

(c) The right of rescission granted under 15 U.S.C. 1601 et seq. for a violation of law is available to a person acting only in an individual capacity by way of recoupment as a defense against a party foreclosing on a home loan at any time during the term of the loan. Any recoupment claim asserted under this provision is limited to the amount required to reduce or extinguish the person's liability under the home loan plus amounts required to recover costs, including reasonable attorney's fees. This article shall not be construed to limit the recoupment rights available to a person under any other law.

(d) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a person. Except as provided in subsection (e), a person is not required to exhaust any administrative remedies under this article or under any other applicable law.

(e) Before bringing an action regarding an alleged deceptive act under this chapter, a person must:

(1) notify the homeowner protection unit established by IC 4-6-12-2 of the alleged violation giving rise to the action; and

(2) allow the homeowner protection unit at least ninety (90) days to institute appropriate administrative and civil action to redress a violation.

(f) An action under this chapter must be brought within five (5) years after the date that the person knew, or by the exercise of reasonable diligence should have known, of the violation of this article.

(g) An award of damages under subsection (a) has priority over a civil penalty imposed under this article.

Sec. 5. (a) If the creditor or an assignee establishes by a preponderance of evidence that a violation of this article is unintentional or the result of a bona fide error of law or fact notwithstanding the maintenance of procedures reasonably adopted to avoid any such violation or error, the validity of the transaction is not affected, and no liability is imposed under section 4 of this chapter except in the case of a refusal to make a refund.

(b) Except as provided in subsection (c), a creditor in a high cost home loan who in good faith fails to comply with this article is not considered to have violated this article if the creditor does the following before receiving notice of the failure from the borrower:

(1) Not later than ninety (90) days after the date of the loan closing:

(A) makes appropriate restitution to the borrower of any amounts collected in error; and

(B) takes necessary action to make all appropriate adjustments to the loan to correct the error.

(2) Not later than one hundred twenty (120) days after the date of the loan closing, notifies the borrower of:

(A) the error; and

(B) the amount of the required restitution or adjustment.

(c) Subsection (b) does not apply unless the creditor establishes that the compliance failure was not intentional and resulted from a bona fide error of fact or law, notwithstanding the maintenance of procedures reasonably adopted to avoid the errors.

Sec. 6. The rights conferred by this article are in addition to rights granted under any other law.

Chapter 6. Reporting Requirements

Sec. 1. (a) A servicer of a high cost home loan shall report at least once each calendar quarter to a nationally recognized consumer credit reporting agency both the favorable and unfavorable payment history information of the borrower on payments due to the creditor on a high cost home loan.

(b) This section does not prohibit a servicer from agreeing with the borrower not to report specified payment history information in the event of a resolved or an unresolved dispute with a borrower and does not apply to high cost home loans held or serviced by a lender for less than ninety (90) days.

Chapter 7. State Power to Regulate Lending

Sec. 1. The state is the sole regulator of the business of originating, granting, servicing, and collecting loans and other forms of credit in Indiana and the manner in which the business is conducted. This regulation preempts all other regulation of these activities by any political subdivision.

Sec. 2. Political subdivisions may not:

(1) enact, issue, or enforce ordinances, resolutions, regulations, orders, requests for proposals, or requests for bids pertaining to financial or lending activities, including ordinances, resolutions, and rules that disqualify persons from doing business with a municipality and that are based upon lending terms or practices; or

(2) impose reporting requirements or any other obligations upon persons regarding financial services or lending practices or upon subsidiaries or affiliates that:

(A) are subject to the jurisdiction of the department of financial institutions;

(B) are subject to the jurisdiction or regulatory supervision of the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, the Federal Deposit Insurance Corporation, the Federal Trade Commission, or the United States Department of Housing and Urban Development;

(C) are chartered by the United States Congress to engage in secondary market mortgage transactions;

(D) are created by the Indiana housing finance authority; or

(E) originate, purchase, sell, assign, securitize, or service property interests or obligations created by financial transactions or loans made, executed, originated, or purchased by persons referred to in clauses (A), (B), (C), or (D).

Chapter 8. Penalties and Enforcement

Sec. 1. A person who knowingly or intentionally violates this article commits:

(1) a Class A misdemeanor; and

(2) an act that is actionable by the attorney general under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5.

Sec. 2. (a) Beginning July 1, 2005, the attorney general and the attorney general's homeowner protection unit established under IC 4-6-12 shall enforce this article for any violation occurring within five (5) years after the making of a home loan.

(b) The attorney general may refer a matter under section 1 of this chapter to a prosecuting attorney for enforcement.

Sec. 3. (a) The attorney general may bring an action to enjoin a violation of this article. A court in which the action is brought may:

(1) issue an injunction;

(2) order a person to make restitution;

(3) order a person to reimburse the state for reasonable costs of the attorney general's investigation and prosecution of the violation of this article; and

(4) impose a civil penalty of not more than ten thousand dollars ($10,000) per violation.

(b) A person who violates an injunction under this section is subject to a civil penalty of not more than ten thousand dollars ($10,000) per violation.

(c) The court that issues an injunction retains jurisdiction over a proceeding seeking the imposition of a civil penalty under this section.

Sec. 4. The attorney general may file complaints with any of the agencies listed in IC 4-6-12-4 to implement this chapter.

Chapter 9. Fees

Sec. 1. The county recorder shall assess a fee of three dollars ($3) under IC 36-2-7-10(b)(11) for each mortgage recorded. The fee shall be paid to the county treasurer at the end of each calendar month as provided in IC 36-2-7-10(a).

Sec. 2. The county auditor shall credit fifty cents ($0.50) of the fee collected under IC 36-2-7-10(b)(11) for each mortgage recorded to the county recorder's records perpetuation fund established under IC 36-2-7-10(c).

Sec. 3. On or before June 20 and December 20 of each year, after completing an audit of the county treasurer's monthly reports required by IC 36-2-10-16, the county auditor shall distribute to the auditor of state two dollars and fifty cents ($2.50) of the mortgage recording fee collected under IC 36-2-7-10(b)(11) for each mortgage recorded by the county recorder. The auditor of state shall deposit the money in the state general fund to be distributed as described in section 4 of this chapter.

Sec. 4. On or before June 30 and December 31 of each year the auditor of state shall distribute one dollar and twenty-five cents ($1.25) of the mortgage recording fee to the home ownership education account established by IC 4-4-3-23 and one dollar and twenty-five cents ($1.25) of the mortgage recording fee to the homeowner protection unit account established by IC 4-6-12-9.

SECTION 34. IC 28-1-11-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 3.2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

~~(1)~~ **(A)** create;

~~(2)~~ **(B)** deliver;

~~(3)~~ **(C)** acquire; or

~~(4)~~ **(D)** sell;

a product, a service, or an investment that is available to or offered by; **or**

(2) to engage in other activities authorized for;

national banks domiciled in Indiana.

(b) A bank that intends to exercise any rights and privileges that are:

(1) granted to national banks; but

(2) not authorized for banks under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to national banks that the bank intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the bank.

(c) The department shall promptly notify the requesting bank of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the bank may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department, through its members, may prohibit the bank from exercising the requested rights and privileges only if the members find that:

(1) national banks domiciled in Indiana do not possess the requested rights and privileges; or

(2) the exercise of the requested rights and privileges by the bank would adversely affect the safety and soundness of the bank.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the bank's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the bank may exercise the requested rights and privileges only if the bank receives prior written approval from the department. However:

(1) the members must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the bank's letter; and

(2) if a hearing is convened, the members must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a bank in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) Whenever, in compliance with this section, a bank exercises rights and privileges granted to national banks domiciled in Indiana, all banks may exercise the same rights and privileges if the department by order determines that the exercise of the rights and privileges by all banks would not adversely affect their safety and soundness.

(h) If the department denies the request of a bank under this section to exercise any rights and privileges that are granted to national banks, the bank may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the bank is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 35. IC 28-1-20-4, AS AMENDED BY P.L.258-2003, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsections (c), (d), (g), and (k), it is unlawful for any person, firm, limited liability company, or corporation (other than a bank or trust company, **a** bank holding company, **a subsidiary of a bank or trust company, a subsidiary of a bank holding company, a subsidiary of a savings bank, a subsidiary of a savings association,** or **a** corporate fiduciary organized or reorganized under IC 28 or statutes in effect at the time of organization or reorganization or under the laws of the United States):

(1) to use the word "bank", "banc", or "banco" as a part of the name or title of the person, firm, or corporation; or

(2) to advertise or represent the person, firm, limited liability company, or corporation to the public:

(A) as a bank or trust company or a corporate fiduciary; or

(B) as affording the services or performing the duties which by law only a bank or trust company or a corporate fiduciary is entitled to afford and perform.

(b) A financial institution organized under the laws of any state or the United States that establishes a branch office under this title is authorized to do business at that branch using a name other than the name of its home office.

(c) Notwithstanding the prohibitions of this section, an out-of-state financial institution with the word "bank" in its legal name may use the word "bank" if the financial institution is insured by the Federal Deposit Insurance Corporation or its successor.

(d) Notwithstanding subsection (a), a building and loan association organized under IC 28-4 (before its repeal) may include in its name or title:

(1) the words "savings bank"; or

(2) the word "bank" if the name or title also includes either the words "savings bank" or letters "SB".

A building and loan association that includes "savings bank" in its title under this section does not by that action become a savings bank for purposes of IC 28-6.1.

(e) The name or title of a savings bank governed by IC 28-6.1 must include the words "savings bank" or the letters "SB".

(f) A savings association may include in its name the words "building and loan association".

(g) Notwithstanding subsection (a), a bank holding company (as defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a part of its name. However, this subsection does not permit a bank holding company to advertise or represent itself to the public as affording the services or performing the duties that by law a bank or trust company only is entitled to afford and perform.

(h) The department is authorized to investigate the business affairs of any person, firm, limited liability company, or corporation that uses "bank", "banc", or "banco" in its title or holds itself out as a bank, corporate fiduciary, or trust company for the purpose of determining whether the person, firm, limited liability company, or corporation is violating any of the provisions of this article, and, for that purpose, the department and its agents shall have access to any and all of the books, records, papers, and effects of the person, firm, limited liability company, or corporation. In making its examination, the department may examine any person and the partners, officers, members, or agents of the firm, limited liability company, or corporation under oath, subpoena witnesses, and require the production of the books, records, papers, and effects considered necessary. On application of the department, the circuit or superior court of the county in which the person, firm, limited liability company, or corporation maintains a place of business shall, by proper proceedings, enforce the attendance and testimony of witnesses and the production and examination of books, papers, records, and effects.

(i) The department is authorized to exercise the powers under IC 28-11-4 against a person, firm, limited liability company, or corporation that improperly holds itself out as a financial institution.

(j) A person, firm, limited liability company, or corporation who violates this section is subject to a penalty of five hundred dollars ($500) per day for each and every day during which the violation continues. The penalty imposed shall be recovered in the name of the state on relation of the department and, when recovered, shall be paid into the financial institutions fund established by IC 28-11-2-9.

(k) The word "bank", "banc", or "banco" may not be included in the name of a corporate fiduciary.

(l) A person, firm, limited liability company, or corporation may not use the name of an existing bank or bank holding company or a name confusingly similar to that of an existing bank or bank holding company when marketing to or soliciting business from a customer or prospective customer if the reference to the existing bank or bank holding company is:

(1) without the consent of the existing bank or bank holding company; and

(2) in a manner that could cause a reasonable person to believe that the marketing material or solicitation:

(A) originated from;

(B) is endorsed by; or

(C) is in any other way the responsibility of;

the existing bank or bank holding company.

(m) An existing bank or bank holding company may, in addition to any other remedies available under the law, report an alleged violation of subsection (l) to the department. If the department finds that the marketing material or solicitation in question is in violation of subsection (l), the department may direct the person, firm, limited liability company, or corporation to cease and desist from using that marketing material or solicitation in Indiana. If that person, firm, limited liability company, or corporation persists in using the marketing material or solicitation, the department may impose a civil penalty of up to fifteen thousand dollars ($15,000) for each violation. Each instance in which the marketing material or solicitation is sent to a customer or prospective customer constitutes a separate violation of subsection (l).

(n) Nothing in subsection (l) or (m) prohibits the use of or reference to the name of an existing bank or bank holding company in marketing materials or solicitations, if the use or reference does not deceive or confuse a reasonable person regarding whether the marketing material or solicitation:

(1) originated from;

(2) is endorsed by; or

(3) is in any other way the responsibility of;

the existing bank or bank holding company.

(o) The department may adopt rules under IC 4-22-2 to implement this section.

SECTION 36. IC 28-7-1-9, AS AMENDED BY P.L.258-2003, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. A credit union has the following powers:

(1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.

(2) To make loans to members or other credit unions. A loan to another credit union may not exceed twenty percent (20%) of the paid-in capital and surplus of the credit union making the loan.

(3) To make loans to officers, directors, or committee members, but only if:

(A) the loan complies with all requirements under this chapter with respect to loans to other borrowers and is not on terms more favorable than those extended to other borrowers;

(B) upon the making of the loan, the aggregate amount of loans outstanding under this subdivision will not exceed twenty percent (20%) of the unimpaired capital and surplus of the credit union;

(C) the loan is approved by the credit committee or loan officer; and

(D) the borrower takes no part in the consideration of or vote on the application.

(4) To invest in any of the following:

(A) Bonds, notes, or certificates that are the direct or indirect obligations of the United States, or of the state, or the direct obligations of a county, township, city, town, or other taxing district or municipality or instrumentality of Indiana and that are not in default.

(B) Bonds or debentures issued by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan Act (12 U.S.C. 1461 through 1468).

(C) Interest-bearing obligations of the FSLIC Resolution Fund and obligations of national mortgage associations issued under the authority of the National Housing Act.

(D) Mortgages on real estate situated in Indiana which are fully insured under Title 2 of the National Housing Act (12 U.S.C. 1707 through 1715z).

(E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(F) In savings and loan associations, other credit unions that are insured under IC 28-7-1-31.5 and certificates of indebtedness or investment of an industrial loan and investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company; nor more than forty percent (40%) in all such associations and companies.

(G) Corporate credit unions.

(H) Federal funds or similar types of daily funds transactions with other financial institutions.

(I) Mutual funds created and controlled by credit unions, credit union associations, or their subsidiaries. Mutual funds referred to in this clause may invest only in instruments that are approved for credit union purchase under this chapter.

(J) Shares, stocks, or obligations of any credit union service organization (as defined in Section 712 of the Rules and Regulations of the National Credit Union Administration) with the approval of the department. Not more than five percent (5%) of the total paid in and unimpaired capital of the credit union may be invested under this clause.

(5) To deposit its funds into:

(A) depository institutions that are federally insured; or

(B) state chartered credit unions that are privately insured by an insurer approved by the department.

(6) To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously

contracted or in exchange for real estate conveyed to the credit union.
(7) To own, hold, or convey real estate as may be purchased by the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.
(8) To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.
(9) To charge the member's share account for the actual cost of necessary locator service when the member has failed to keep the credit union informed about the member's current address. The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.
(10) To transfer to an accounts payable, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of two (2) years. The credit union shall not consider the payment of dividends on the transferred account.
(11) To invest in fixed assets with the funds of the credit union. An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department.
(12) To establish branch offices, upon approval of the department, provided that all books of account shall be maintained at the principal office.
(13) To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.
(14) To purchase life savings and loan protection insurance for the benefit of the credit union and its members, if:
(A) the coverage is placed with an insurance company licensed to do business in Indiana; and
(B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.
(15) To sell and cash negotiable checks, travelers checks, and money orders for members.
(16) To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of its unimpaired capital and surplus unless special written authorization has been granted by the department.
(17) To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.
(18) To act as a custodian or trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit sharing plan which qualifies or qualified for specific tax treatment under Section 408(a) or Section 401(d) of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.
(19) To issue shares of its capital stock or insured certificates to a trustee or custodian of a pension plan, profit sharing plan, or stock bonus plan which qualifies for specific tax treatment under Sections 401(d) or 408(a) of the Internal Revenue Code.
(20) A credit union may exercise any rights and privileges that are:
(A) granted to federal credit unions; but
(B) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;
if the credit union complies with section 9.2 of this chapter.
(21) To sell, pledge, or discount any of its assets. However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.
(22) To purchase assets of another credit union and to assume the liabilities of the selling credit union.
(23) To act as a fiscal agent of the United States and to receive deposits from nonmember units of the federal, state, or county governments, from political subdivisions, and from other credit unions upon which the credit union may pay varying interest rates at varying maturities subject to terms, rates, and conditions that are established by the board of directors. However, the total amount of public funds received from units of state and county governments and political subdivisions that a credit union may have on deposit may not exceed ~~ten~~ **twenty** percent ~~(10%)~~ **(20%)** of the total assets of that credit union, excluding those public funds.
(24) To join the National Credit Union Administration Central Liquidity Facility.
(25) To participate in community investment initiatives under the administration of organizations:
(A) exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and
(B) located or conducting activities in communities in which the credit union does business.
Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be limited to members of the credit union. Total contributions or participation loans may not exceed one tenth of one percent (0.001) of total assets of the credit union. A recipient of a contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.
(26) To establish and operate an automated teller machine (ATM):
(A) at any location within Indiana; or
(B) as permitted by the laws of the state in which the automated teller machine is to be located.
(27) To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:
(A) reasonable compensation, or compensation as fixed by agreement of the parties;
(B) all advances necessarily paid out and expended in the discharge and performance of its duties; and
(C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).
(28) Subject to any restrictions the department may impose, to become the owner or lessor of personal property acquired upon the request and for the use of a member and to incur additional obligations as may be incident to becoming an owner or lessor of such property.

SECTION 37. IC 28-7-1-9.2, AS ADDED BY P.L.134-2001, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9.2. (a) As used in this section, "rights and privileges" means the power:
(1) to:
~~(1)~~ **(A)** create;
~~(2)~~ **(B)** deliver;
~~(3)~~ **(C)** acquire; or
~~(4)~~ **(D)** sell;
a product, a service, or an investment that is available to or offered by; **or**
(2) to engage in other activities authorized for;
federal credit unions domiciled in Indiana.
(b) A credit union that intends to exercise any rights and privileges that are:
(1) granted to federal credit unions; but
(2) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana

Code;
shall submit a letter to the department describing in detail the requested rights and privileges granted to federal credit unions that the credit union intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the credit union.

(c) The department shall promptly notify the requesting credit union of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the credit union may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department, through its members, may prohibit the credit union from exercising the requested rights and privileges only if the members find that:

(1) federal credit unions domiciled in Indiana do not possess the requested rights and privileges; or

(2) the exercise of the requested rights and privileges by the credit union would adversely affect the safety and soundness of the credit union.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the credit union's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the credit union may exercise the requested rights and privileges only if the credit union receives prior written approval from the department. However:

(1) the members must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the credit union's letter; and

(2) if a hearing is convened, the members must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a credit union in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) Whenever, in compliance with this section, a credit union exercises rights and privileges granted to federal credit unions domiciled in Indiana, all credit unions may exercise the same rights and privileges if the department by order determines that the exercise of the rights and privileges by all credit unions would not adversely affect their safety and soundness.

(h) If the department denies the request of a credit union under this section to exercise any rights and privileges that are granted to federal credit unions, the credit union may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the credit union is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 38. IC 28-8-4-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 27. (a) Except as provided in section 29 of this chapter, an application must be accompanied by a security device that secures the faithful performance of the obligations of the licensee to receive, handle, transmit, and pay money in connection with the:

(1) sale and issuance of payment instruments; or

(2) transmission of money.

(b) The security device required under subsection (a) must:

(1) be in an amount as provided under subsection (c);

(2) run to the state; and

(3) be in a form acceptable to the director.

(c) The security device must be in an amount calculated as follows:

STEP ONE: Subtract one (1) from the number of locations where the applicant proposes to engage in business under the license.

STEP TWO: Multiply the difference determined under STEP ONE by ten thousand dollars ($10,000).

STEP THREE: Add ~~one~~ **two** hundred thousand dollars ~~($100,000)~~ **($200,000)** to the product determined under STEP TWO.

STEP FOUR: Pay the amount that is the lesser of:

(1) the sum determined in STEP THREE; or

(2) ~~two~~ **three** hundred thousand dollars ~~($200,000).~~ **($300,000).**

(d) If the security device filed is a bond, the aggregate liability of the surety shall not exceed the principal sum of the bond.

SECTION 39. IC 28-8-4-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 33. (a) A license granted under this chapter permits a licensee to conduct business:

(1) at one (1) or more locations directly or indirectly owned by the licensee; or

(2) through one (1) or more authorized delegates.

(b) Each licensee shall maintain a policy of insurance issued by an insurer authorized to do business in Indiana that insures the applicant against loss by a criminal act or act of dishonesty. The principal sum of the policy shall be equivalent to ~~one-half (1/2)~~ **the amount** of the required security device required under section 27 of this chapter or deposit required under section 29 of this chapter.

(c) Except as provided in subsection (d), a licensee must at all times possess permissible investments with an aggregate market value calculated in accordance with generally accepted accounting principles of not less than the aggregate face amount of all outstanding payment instruments issued or sold by the licensee or an authorized delegate of the licensee in the United States.

(d) The director may waive the permissible investments requirement in subsection (c) if the dollar volume of a licensee's outstanding payment instruments does not exceed:

(1) the security device posted by the licensee under section 27 of this chapter; or

(2) the deposit made by the licensee under section 29 of this chapter.

(e) A licensee that is a corporation must at all times be in good standing with the secretary of state of the state in which the licensee was incorporated.

SECTION 40. IC 28-10-1-1, AS AMENDED BY P.L.258-2003, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)]: Sec. 1. A reference to a federal law or federal regulation in IC 28 is a reference to the law or regulation in effect January 1, ~~2003.~~ **2004.**

SECTION 41. IC 28-11-3-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 6. (a) As used in this section:**

(1) "federally chartered" means an entity organized or reorganized under the law of the United States; and

(2) "state chartered" means an entity organized or reorganized under the law of Indiana or another state.

(b) If the department determines that federal law has preempted a provision of IC 24, IC 26, IC 28, IC 29, or IC 30, the provision of IC 24, IC 26, IC 28, IC 29, or IC 30 applies to a state chartered entity only to the same extent that the department determines the provision is applicable to the:

(1) same; or

(2) functionally equivalent;

type of federally chartered entity.

(c) A state chartered entity seeking an exemption from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 based on the preemption of the provision as applied to a federally chartered entity shall submit a letter to the department:

(1) describing in detail; and

(2) documenting the federal preemption of;

the provisions from which it seeks exemption. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the requesting entity.

(d) The department shall notify the requesting entity within ten (10) business days after the department's receipt of a letter described in subsection (c). Except as provided in subsection (e), upon receipt of the notification, the requesting entity may operate as if it is exempt from the provision of IC 24, IC 26, IC 28, IC 29, or IC 30 for ninety (90) days after the date on which the department receives the letter, unless otherwise notified by the department. This period may be extended if the department determines that the requesting entity's letter raises issues requiring additional information or additional time for analysis. If the department extends the period, the requesting entity may operate as if the requesting entity is exempt from a provision of

IC 24, IC 26, IC 28, IC 29, or IC 30 only if the requesting entity receives prior written approval from the department. However:

(1) the department must:

(A) approve or deny the requested exemption; or

(B) convene a hearing;

not later than ninety (90) days after the department receives the requesting entity's letter; and

(2) if a hearing is convened, the department must approve or deny the requested exemption not later than ninety (90) days after the hearing is concluded.

(e) The department may refuse to exempt a requesting entity from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 if the department finds that any of the following conditions apply:

(1) The department determines that a described provision of IC 24, IC 26, IC 28, IC 29, or IC 30 is not preempted for a federally chartered entity of the:

(A) same; or

(B) functionally equivalent;

type.

(2) The extension of the federal preemption in the form of an exemption from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 to the requesting entity would:

(A) adversely affect the safety and soundness of the requesting entity; or

(B) result in an unacceptable curtailment of consumer protection provisions.

(3) The failure of the department to provide for the exemption from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 will not result in a competitive disadvantage to the requesting entity.

(f) The operation of a financial institution in a manner consistent with exemption from a provision of IC 24, IC 26, IC 28, IC 29, or IC 30 under this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) If a financial institution is exempted from the provisions of IC 24, IC 26, IC 28, IC 29, or IC 30 in compliance with this section, the department shall do the following:

(1) Determine whether the exemption shall apply to all financial institutions that, in the opinion of the department, possess a charter that is:

(A) the same as; or

(B) functionally the equivalent of;

the charter of the exempt institution.

(2) For purposes of the determination required under subdivision (1), ensure that applying the exemption to the financial institutions described in subdivision (1) will not:

(A) adversely affect the safety and soundness of the financial institutions; or

(B) unduly constrain Indiana consumer protection provisions.

(3) Issue an order published in the Indiana Register that specifies whether the exemption applies to the financial institutions described in subdivision (1).

(h) If the department denies the request of a financial institution under this section for exemption from Indiana Code provisions that are preempted for federally chartered institutions, the requesting institution may appeal the decision of the department to the circuit court of the county in which the principal office of the requesting institution is located.

SECTION 42. IC 28-13-16-4, AS AMENDED BY P.L.258-2003, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 4. (a) A financial institution or any of its subsidiaries may acquire or establish a qualifying subsidiary by providing the department with written notice before acquiring or establishing the subsidiary. The department shall notify the requesting financial institution of the department's receipt of the notice.

(b) A subsidiary may exercise a power or engage in an activity permitted to be performed by a financial institution under the same conditions and restrictions as if the power or activity is performed by the financial institution itself, or the activity has been authorized ~~by~~ **as "activity eligible for notice" procedures under** 12 CFR ~~5.34(e)(2)(ii).~~ **5.34(e).**

(c) The qualified subsidiary may exercise or engage in the activity thirty (30) days after the date on which the department receives the notification unless otherwise notified by the department.

SECTION 43. IC 28-13-16-5, AS ADDED BY P.L.215-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. A financial institution may acquire or establish a nonqualifying subsidiary by submitting an application to the department containing:

(1) a complete description of the financial institution's investment in the subsidiary;

(2) the activity to be conducted; and

(3) a representation that the activity:

(A) could be performed by a financial institution under statutory authority of this title;

(B) is a part of or incidental to the business of banking as determined by the director; or

(C) has been authorized ~~by~~ **as "activity eligible for notice" procedures under** 12 CFR ~~5.34(e)(2)(ii).~~ **5.34(e).**

The department shall notify the requesting financial institution of the department's receipt of the application.

SECTION 44. IC 28-15-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

~~(1)~~ **(A)** create;

~~(2)~~ **(B)** deliver;

~~(3)~~ **(C)** acquire; or

~~(4)~~ **(D)** sell;

a ~~product or service~~ **product, a service, or an investment** that is available to or offered by; **or**

(2) to engage in other activities authorized for;

federal savings associations **domiciled in Indiana.**

(b) Subject to this section, savings associations may exercise the rights and privileges that are granted to federal savings associations.

(c) A savings association that intends to exercise any rights and privileges that are:

(1) granted to federal savings associations; but

(2) not authorized for savings associations under:

(A) the Indiana Code (except for this section); or

(B) a rule adopted under IC 4-22-2;

shall submit a letter to the department, describing in detail the requested rights and privileges granted to federal savings associations that the savings association intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter.

(d) The department shall promptly notify the requesting savings association of its receipt of the letter submitted under subsection (c). Except as provided in subsection (f), the savings association may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(e) The department, through its members, may prohibit the savings association from exercising the requested rights and privileges only if the members find that:

(1) federal savings associations in Indiana do not possess the requested rights and privileges; or

(2) the exercise of the requested rights and privileges by the savings association would adversely affect the safety and soundness of the savings association.

(f) The sixty (60) day period referred to in subsection (d) may be extended by the department based on a determination that the savings association letter raises issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the savings association may exercise the requested rights and privileges only if the savings association receives prior written approval from the department. However:

(1) the members must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the savings association's letter; and

(2) if a hearing is convened, the members must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(g) The exercise of rights and privileges by a savings association

in compliance with and in the manner authorized by this section does not constitute a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(h) Whenever, in compliance with this section, a savings association exercises rights and privileges granted to national savings associations domiciled in Indiana, all savings associations may exercise the same rights and privileges if the department by order determines that the exercise of the rights and privileges by all savings associations would not adversely affect their safety and soundness.

SECTION 45. IC 32-29-1-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. A mortgagee or a mortgagee's assignee or representative may not require a mortgagor, as a condition of receiving or maintaining a mortgage, to obtain hazard insurance coverage against risks to improvements on the mortgaged property in an amount exceeding the replacement value of the improvements.**

SECTION 46. IC 34-7-4-2, AS AMENDED BY SEA 263-2004, SECTION 120, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 2. Statutes outside IC 34 providing causes of action or procedures include the following:

(1) IC 4-21.5-5 (Judicial review of administrative agency actions).

(2) IC 22-3-4 (Worker's compensation administration and procedures).

(3) IC 22-4-17 (Unemployment compensation system, employee's claims for benefits).

(4) IC 22-4-32 (Unemployment compensation system, employer's appeal process).

(5) IC 22-9 (Civil rights actions).

(6) **IC 24-9 (Home loans).**

(7) IC 31-14 (Paternity).

~~(7)~~ **(8)** IC 31-15 (Dissolution of marriage and legal separation).

~~(8)~~ **(9)** IC 31-16 (Support of children and other dependants).

~~(9)~~ **(10)** IC 31-17 (Custody and visitation).

~~(10)~~ **(11)** IC 31-19 (Adoption).

~~(11)~~ **(12)** IC 32-27-2, IC 32-30-1, IC 32-30-2, ~~IC 32-30-2.1, IC 32-30-2,~~ IC 32-30-4, IC 32-30-9, IC 32-30-10, IC 32-30-12, IC 32-30-13, and IC 32-30-14 (Real property).

~~(12)~~ **(13)** IC 33-43-4 (Attorney liens).

SECTION 47. IC 36-2-7-10, AS AMENDED BY P.L.2-2003, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) One dollar ($1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records produced by a photographic process, and two dollars ($2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars ($5) for acknowledging or certifying to a document.

(7) Five dollars ($5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 32-19-4-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars ($3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars ($3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents ($0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents ($2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(c) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under subsection (b)(5), (b)(8), (b)(9), and (b)(10), **and fifty cents ($0.50) from revenue received under subsection (b)(11),** shall be deposited in this fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment.

(d) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(e) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(f) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-17-2-3.

(E) IC 10-17-3-2.

(F) IC 12-14-13.

(G) IC 12-14-16.

(g) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 48. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2004]: IC 24-4.5-7-407; IC 24-4.5-7-408.

SECTION 49. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 4-4-3-8(b)(15), as added by this act, the department of commerce shall carry out the duties imposed on it under IC 4-4-3-8(b)(15), as added by this act, under interim written guidelines approved by the executive director of the department of commerce.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 4-4-3-8(b)(15), as added by this act.

(2) July 1, 2005.

SECTION 50. [EFFECTIVE UPON PASSAGE] **Notwithstanding IC 24-9-3 and IC 24-9-4, both as added by this act, a person is not subject to a prohibition or requirement of IC 24-9-3 and IC 24-9-4, both as added by this act, with respect to a loan made before January 1, 2005.**

SECTION 51. **An emergency is declared for this act.**

(Reference is to EHB 1229 as reprinted February 26, 2004.)

BARDON	BRAY
BURTON	LANANE
House Conferees	Senate Conferees

The conference committee report was filed and read a first time.

The recess continued to the hour of midnight. Accordingly, the twenty-eighth meeting day ended.

[*Journal Clerk's Note: the House had previously adopted a motion to convene on Thursday, March 4 at 11:00 a.m.*]

B. PATRICK BAUER
Speaker of the House of Representatives

DIANE MASARIU CARTER
Principal Clerk of the House of Representatives